

Town Board Minutes

Meeting No. 13

Regular Meeting

April 8, 2002

Town Board Minutes

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Meeting No. 13

A Regular Meeting of the Town Board of the Town of Lancaster, Erie County, New York, was held at the Town Hall at Lancaster, New York on the 8th day of April, 2002 at 8:00 P.M. and there were

PRESENT: MARK MONTOUR, COUNCIL MEMBER
RONALD RUFFINO, COUNCIL MEMBER
DONNA STEMPIAK, COUNCIL MEMBER
RICHARD ZARBO, COUNCIL MEMBER
ROBERT GIZA, SUPERVISOR

ABSENT: NONE

ALSO PRESENT: JOHANNA COLEMAN, TOWN CLERK
ROBERT LABENSKI, TOWN ENGINEER
THOMAS PRZYBYLA, DEPUTY TOWN ATTORNEY
LEONARD CAMPISANO, ASST. BUILDING INSPECTOR
THOMAS FOWLER, CHIEF OF POLICE
CHRISTINE FUSCO, ASSESSOR
TERRENCE McCRACKEN, GENERAL CREW CHIEF
RICHARD REESE JR., HIGHWAY SUPERINTENDENT

PERSONS ADDRESSING TOWN BOARD:

Vellake, Kathy, 34 Linwood Avenue, Buffalo, spoke to the Town Board on the following matter:

- Expressed opposition to Wal Mart at Transit Road & William Street

Dubicki, Dorcas, 52 Steinfeldt Road, spoke to the Town Board on the following matter:

- Comments & questions about wetlands mitigation in the Steinfeldt Road area.
- Questions about the FEIS of NEC Transit/William LLC and the jurisdiction of the proposed wetland mitigation.

Przybysz, Tricia, 66 Northwood Drive, spoke to the Town Board on the following matter:

- Questions about the NEC Transit/William LLC rezone.
- Would like to see the petition which was filed with the Town by persons in favor of Wal Mart.

Bobak, Sharon, 3733 Bowen Road, spoke to the Town Board on the following matter:

- Expressed opposition to the Wal Mart.

Pelletterie, Georgette, 5579 William Street, spoke to the Town Board on the following matters:

- Thanked Council Member Ruffino for taking her seat because she now has more time and questioned him regarding comments made about the school district.
- Directed personal comments towards Council Member Montour.

Beutler, Daniel, 26 Tyler Street, spoke to the Town Board on the following matters:

- Comments on the Police merger and the Master Plan. He would like a public referendum.
- Requested denial of rezone to NEC transit/William LLC.

Hammer Fred, 240 Ransom Road, spoke to the Town Board on the following matters:

- Expressed dissatisfaction with Town officials and their decisions. He feels that there is no hope for the future of Lancaster with the current leadership.
- Questions about the cost of the Erie County Water Authority pump station.
- Comments about the building moratorium
- Comments about the rezone of NEC Transit/William LLC.

Howell, Gury, 48 Park Blvd, spoke to the Town Board on the following matters

- Comments about NEC Transit/William rezone petition.
- Urges the Town Board to deny rezone for Transit/William LLC.
- Requested that the NEC Transit/William LLC project be downsized.

Kubicki, Gloria, 15 Maple Drive, spoke to the Town Board on the following matters:

- Questions about referral of communications.
- Questions about the Erie County Department of Health and the Erie County Water Authority pump station.

Przybysz, Paul, 66 Northwood Drive, spoke to the Town Board on the following matters:

- Comments about SEQR Findings and rezone petition of NEC Transit/William LLC and the Wal Mart Store proposed for project site. He feels that the SEQR is flawed. Does not want a 24-7 operation at the site.
- Inquired if the Wal Mart will be a "Super Center". (The developer replied with a no.)

Schneggenburger, Roy, 87 Stony Road, spoke to the Town Board on the following matters:

- Comments about resolution #'s 1, 7, 6, 14, & 15 from this meeting.
- Stated that he is against rezone of Transit Road and William Street.
- Questions about locations of Dumping Permit for Batog & Smith.
- Questions regarding additional benefits bestowed upon the Police Chief.
- Requested that the Police Chief be removed as Records Access Officer for Police records.
- Inquired why there was no notice to the public on Town Board Communications regarding Congressman Quinn's meeting held on March 21, 2002.

PUBLIC HEARING SCHEDULED FOR 8:30 P.M.:

At 8:30 P.M., the Town Board held a Public Hearing to hear all interested persons upon a proposed Local Law of the Year 2002 which repeals parts of Local Law No 1 of the year 1997 entitled " Communications Towers" to wit: repeals in its entirety §50-41.3 of Article VIIA of Chapter 50-Zoning of the Code of the Town of Lancaster and enacts in place thereof a new §50-41.3 of Article VIIA of Chapter 50-Zoning of the Code of the Town of Lancaster, and repeals in its entirety §50-41.4 of Article VIIA of Chapter 50-Zoning of the Code of the Town of Lancaster and enacts in place thereof a new §50-41.4 of Article VIIA of Chapter 50-Zoning of the Code of the Town of Lancaster and repeals in its entirety §50-41.5 of Article VIIA of Chapter 50-Zoning of the Code of the Town of Lancaster and enacts in place thereof a new §50-41.5 of Article VIIA of Chapter 50-Zoning of the Code of the Town of Lancaster.

The affidavits of publication of this Public Hearing are on file and a copy of the Public Notice has been posted.

NAME	ADDRESS	Proponent/ Opponent/ Comments/Questions
Henry Gull	710 Pavement Road	Proponent
John Stanko	10 Pleasant View Drive	Questions
Fred Hammer	240 Ransom Road	Proponent
Jeffrey Scherzer, Atty., for SBA Communications		Proponent
Gloria Kubicki	15 Maple Drive	Comments

ON MOTION BY COUNCIL MEMBER STEMPNIAK, AND
SECONDED BY COUNCIL MEMBER MONTOUR, FOR ADJOURNMENT OF THE
PUBLIC HEARING, on roll, which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

The Public Hearing was adjourned at 8:49 P.M.

The Town Board, later in the meeting, adopted a resolution, hereinafter spread at length in these minutes, taking favorable action upon this matter.
April 8, 2002

PUBLIC HEARING SCHEDULED FOR 8:45 P.M.:

At 8:49 P.M., the Town Board held a Public Hearing to hear all interested persons upon a proposed Local Law of the Year 2002 which Local Law repeals in its entirety Chapter 34 of the Code of the Town of Lancaster entitled "Residential Subdivision Development" and enacts in place thereof a new Chapter 34 of said Code entitled "Residential Subdivision Development" of the Code of the Town of Lancaster.

The affidavits of publication of this Public Hearing are on file and a copy of the Public Notice has been posted.

NAME	ADDRESS	Proponent/ Opponent/ Comments/Questions
Gary Howell	48 Park Blvd	Comments
Fred Hammer	240 Ransom Road	Proponent
Allen Klembczyk	41 Chestnut Corner	Proponent
Gloria Kublicki	15 Maple Drive	Questions

ON MOTION BY COUNCIL MEMBER MONTOUR AND SECONDED
BY COUNCIL MEMBER RUFFINO, FOR ADJOURNMENT OF THE PUBLIC HEARING,
on roll, which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

The Public Hearing was adjourned at 9:10 P.M.

The Town Board, later in the meeting, considered a resolution, hereinafter spread at length in these minutes.

April 8, 2002

PRESENTATION OF PREFILED RESOLUTIONS BY COUNCIL MEMBERS:

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER MONTOUR, TO WIT:

RESOLVED, that the minutes from the Regular Meeting of the Town Board held
March 18, 2002 be and are hereby approved.

The question of the adoption of the foregoing resolution was duly put to a vote on
roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	ABSTAINED
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

April 8, 2002

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER STEMPIAK, TO WIT:

RESOLVED, that the minutes from the Joint Meeting of the Planning Board and
the Town Board held March 20, 2002 be and are hereby approved.

The question of the adoption of the foregoing resolution was duly put to a vote on
roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	ABSTAINED
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	ABSTAINED
SUPERVISOR GIZA	VOTED YES

April 8, 2002

File: RMIN (P2)

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO MOVED ITS
ITS ADOPTION, SECONDED BY COUNCIL
MEMBER ZARBO, TO WIT:

WHEREAS, the Supervisor of the Town of Lancaster has requested the creation
of one (1) additional position for the Town of Lancaster Highway Department, namely Light Motor
Equipment Operator (LEO).

NOW, THEREFORE, BE IT

RESOLVED, that the Supervisor of the Town of Lancaster be and is hereby
authorized to complete and sign Form PO-17 (New Positions Duties Statement) to create one
position of Light Motor Equipment Operator (LEO).

The question of the adoption of the foregoing resolution was duly put to a vote on
roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

April 8, 2002

File: RPERS.CRE (P1)

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPNIAK WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

WHEREAS, the Municipal Home Rule Law of the State of New York and Chapter 26 of the Code of the Town of Lancaster provide for the adoption and enactment of local laws, and

WHEREAS, proposed Local Law No. 1 of the Year 2002 repealing and deleting §50-41.3, §50-41.4 and §50-41.5 of Chapter 50, Article VIIA of the Zoning Code of the Town of Lancaster, entitled "Communications Towers", was introduced to the Town Board of the Town of Lancaster on March 18, 2002, and

WHEREAS, a public hearing was duly called and held pursuant to law on April 8, 2002;

NOW, THEREFORE, BE IT

ENACTED by the Town Board of the Town of Lancaster, Local Law No. 1 of the Year 2002, repealing and deleting §50-41.3, §50-41.4, and §50-41.5 of Chapter 50, Article VIIA of the Zoning Code of the Town of Lancaster entitled "Communications Towers" and enacting a new §50-41.3, §50-41.4, and §50-41.5 of Chapter 50, Article VIIA of the Zoning Code of the Town of Lancaster as follows:

ZONING

CHAPTER 50 - ARTICLE VIIA

COMMUNICATIONS TOWERS

§50-41.3, §50-41.4 and §50-41.5

LOCAL LAW NO. 1

OF THE YEAR 2002

A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF LANCASTER, BY DELETING §50-41.3, §50-41.4, and §50-41.5 OF CHAPTER 50, ARTICLE VIIA OF THE ZONING CODE ENTITLED "COMMUNICATIONS TOWERS" AND ENACTING IN PLACE THEREOF A NEW §50-41.3, §50-41.4, and §50-41.5 OF CHAPTER 50, ARTICLE VIIA OF THE ZONING CODE.

BE IT ENACTED by the Town Board of the Town of Lancaster, as follows:

(1) REPEALING IN ITS ENTIRETY §50-41.3 OF CHAPTER 50, ARTICLE VIIA OF THE ZONING CODE AND ENACTING IN PLACE THEREOF A NEW §50-41.3.

SECTION 1. That §50-41.3 of Chapter 50, Article VIIA of the Zoning Code be and is hereby repealed.

SECTION 2. That a new §50-41.3 of Chapter 50, Article VIIA of the Zoning Code be and is hereby enacted as follows:

§50-41.3 Co-locating antennas on existing structures.

Communication antennas may be attached to existing communication towers, water tanks, buildings, or structures in any zoning district, upon application for approval made to the Town Clerk and upon review and approval by the Town Board. Such application shall be subject to environmental review pursuant to SEQRA.

(2) REPEALING IN ITS ENTIRETY §50-41.4 OF CHAPTER 50, ARTICLE VIIA OF THE ZONING CODE AND ENACTING IN PLACE THEREOF A NEW §50-41.4.

SECTION 1. That §50-41.4 of Chapter 50, Article VIIA of the Zoning Code be and is hereby repealed.

SECTION 2. That a new §50-41.4 of Chapter 50, Article VIIA of the Zoning Code be and is hereby enacted as follows:

§50-41.4 Communication towers, Site Plan, and Special Use Permit.

Communication towers and accessory structures in all zoning districts shall be issued a building permit only after an application for site plan review pursuant to §50-41.6 Town Code has been submitted to the Town, duly reviewed by the Planning Board with a recommendation made to the Town Board and upon action by the Town Board granting a special use permit based upon the review of the site plan. This issuance of a special use permit hereunder is subject to environmental review pursuant to SEQRA.

(3) REPEALING IN ITS ENTIRETY §50-41.5 OF CHAPTER 50, ARTICLE VIIA OF THE ZONING CODE AND ENACTING IN PLACE THEREOF A NEW §50-41.5.

SECTION 1. That §50-41.5 of Chapter 50, Article VIIA of the Zoning Code be and is hereby repealed.

SECTION 2.

That a new §50-41.5 of Chapter 50, Article VIIA of the Zoning Code be and is hereby enacted as follows:

§50-41.5 Town Owned Property; Exemption by Town Board

The Town Board reserves the right to waive the special use permit requirements for communication towers proposed to be located on Town property but even in the event of such waiver an environmental review pursuant to SEQRA must be conducted prior to issuance of a building permit.

- (4) This Local Law shall become effective upon filing with the Office of the Secretary of State.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Clerk of the Town of Lancaster shall:

1. Immediately post a copy of Local Law No. 1 of the Year 2002 on the Town Bulletin Board;
2. Within ten (10) days, publish a certified copy of the Local Law abstract thereof describing the same in general terms in the Lancaster Bee, declared the official newspaper for this publication;
3. Maintain a file in the Town Clerk's Office on Local Law No. 1 of the Year 2002, with all proofs of publication and posting required for adoption; and
4. File certified copies of Local Law No. 1 of the Year 2002 within ten (10) days of adoption with:
 - a) Town Clerk's office
 - b) One (1) copy with the office of the Secretary of State.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

April 8, 2002

File: rlocallawcommunicationtowers402.wpd

**LEGAL NOTICE
NOTICE OF ADOPTION
LOCAL LAW NO. 1 OF YEAR 2002
TOWN OF LANCASTER**

PLEASE TAKE NOTICE that there has been adopted by the Town Board of the Town of Lancaster, Erie County, New York, on April 8, 2002 Local Law No. 1 of the Year 2002, repealing and deleting §50-41.3, §50-41.4, and §50-41.5 of Chapter 50, Article VIIA of the Zoning Code of the Town of Lancaster and enacting a new §50-41.3, §50-41.4, and §50-41.5 of Chapter 50, Article VIIA of the Zoning Code of the Town of Lancaster, briefly described as follows:

"A Local Law which repeals §50-41.3, §50-41.4, and §50-41.5 of Chapter 50, Article VIIA entitled "Communications Towers" of the Zoning Code of the Town of Lancaster, and enacts in place thereof a new §50-41.3, §50-41.4 and §50-41.5 of Chapter 50, Article VIIA of the Zoning Code of the Town of Lancaster.

This Local Law sets forth a change in the Local Law whereby all Communications Towers shall require a site plan review and special use permit, while additions to existing towers shall require an authorization by the Town Board".

**TOWN BOARD OF THE
TOWN OF LANCASTER**

**By: JOHANNA M. COLEMAN
Town Clerk**

April 8, 2002

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPIAK, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER ZARBO, TO WIT:

WHEREAS, the Municipal Home Rule Law of the State of New York and Chapter 26 of the Code of the Town of Lancaster provide for the adoption and enactment of local laws, and

WHEREAS, proposed Local Law No. 2 of the Year 2002, entitled "Residential Subdivision Development" designated as Chapter 34 of the Code of the Town of Lancaster, was introduced to the Town Board of the Town of Lancaster by Council Member Montour on the 18th day of March, 2002, and

WHEREAS, a Public Hearing was duly called and held pursuant to law on April 8, 2002;

NOW, THEREFORE, BE IT

ENACTED by the Town Board of the Town of Lancaster, Local Law No. 2 of the Year 2002 entitled: "Residential Subdivision Development", and designated as Chapter 34 of the Code of the Town of Lancaster, which Local Law reads as follows:

CHAPTER 34

RESIDENTIAL SUBDIVISION DEVELOPMENT

LOCAL LAW NO. 2

**Of the Year
2002**

A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF LANCASTER, BY DELETING AND REPEALING, IN ITS ENTIRETY CHAPTER 34 OF THE CODE OF THE TOWN OF LANCASTER, AND ENTITLED "RESIDENTIAL SUBDIVISION DEVELOPMENT", AND REPLACING IT WITH LOCAL LAW NO. 2 OF THE YEAR 2002 ENTITLED, "RESIDENTIAL SUBDIVISION DEVELOPMENT" AND DESIGNATED AS CHAPTER 34, OF THE CODE OF THE TOWN OF LANCASTER.

BE IT ENACTED, by the Town Board of the Town of Lancaster, as follows:

Section 1.

The Code of the Town of Lancaster is hereby amended by deleting and repealing Local Law No. 5 of the Year 2001 and designated Chapter 34, of the Code, entitled "Residential Subdivision Development".

Section 2.

The Code of the Town of Lancaster is hereby amended by adding thereto Local Law No. 2 of the Year 2002, to replace "Chapter 34" as hereinabove repealed, which shall be entitled: "Residential Subdivision Development", and shall read as follows:

RESIDENTIAL SUBDIVISION DEVELOPMENT

Chapter 34

- §34-1. Title.**
- §34.2. Purpose.**
- §34.3. Jurisdiction.**
- §34.4. Definitions.**
- §34.5. Temporary limitations.**
- §34-6. Severability.**
- §34-7. Supersession of statutory provisions.**
- §34-8. When effective.**

§34-1. Title.

This chapter shall hereinafter be known and cited as "Residential Subdivision Development" of the Town of Lancaster and further designated as Chapter 34 of the Code of the Town of the Town of Lancaster.

§34-2. Purpose.

- A. It is the purpose of this chapter to temporarily limit new residential subdivision growth in the entire town, in order to address the potential demands occasioned by residential developments which may cause significant stress on (1) the infrastructure, including road systems and the available water pressure, (2) public school system, and (3) town services. Such a moratorium will provide a reasonable time for the Town's Comprehensive Master Plan Committee to complete its current analysis of the town's present and future growth management plan; to present its findings; to allow public comment thereon; and to allow the Town Board to enact appropriate laws relating thereto and to make proposed revisions to the town zoning laws, if necessary.
- B. Further, it is the purpose of this chapter to fulfill the town's constitutional, statutory and legal obligations to protect and preserve the public health, welfare and safety of the residents of the Town of Lancaster and to protect the value, use and enjoyment of property within the town.

§34-3. Jurisdiction.

This chapter shall apply to the entire Town of Lancaster, excluding the Villages of Lancaster and Depew.

§34-4. Definitions.

For purposes of this chapter, the terms used herein shall be defined as follows:

APPLICATION - Any request for official action by the Town Board, Planning Board, SEQR Municipal Review Committee (MRC), and/or department of the town, which request would, in any way, commence the process whereby land may be developed.

RESIDENTIAL SUBDIVISION DEVELOPMENT:

- A. Any subdivision of five (5) or more lots, for purposes of constructing one or two family residences, or any size subdivision requiring any new street or extension of municipal facilities; or
- B. Any townhouse, condominium project or apartment complex involving five (5) or more dwelling units.

§34-5. Temporary limitation.

- A. For a period commencing on the effective date of this chapter and terminating six (6) months from the effective date, no application for residential subdivision development may be filed, accepted and/or approved except as provided in Subsection B.
- B. This Chapter shall not apply to (1) any residential subdivision of land that involves five (5) lots or less; (2) any residential subdivision of any size for which an application has heretofore been filed with the Town Clerk as of the effective date of this Local Law; and (3) any residential complex designed to house senior citizens whether as an assisted living center or otherwise.

§34-6. Severability.

If any section, sentence, clause or phrase of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this chapter.

§34-7. Supersedure of statutory provisions.

This chapter is intended to supersede §274-a, Subdivision 7, of the Town Law (L. 1992, c.694, §1, effective July 1, 1993), relating to the time within which an application for site plan approval must be decided. This chapter is also intended to supersede §276, Subdivisions 5 (f) and 6 (f), of the Town Law (L.1992 c.727, §1, effective July 1, 1993), relating to default approval of preliminary plat and final plats.

§34-8. When effective.

This chapter shall become effective upon filing with the Secretary of State.

and,

BE IT FURTHER

RESOLVED, that the Town Clerk of the Town of Lancaster shall:

1. Immediately post a copy of Local Law No. 2 of the Year 2002 on the Town Bulletin Board;
2. Within ten (10) days publish a certified copy of the Local Law abstract thereof describing the same in general terms in the Lancaster Bee, declared the official newspaper for this publication;
3. Maintain a file in the Town Clerk's Office on Local Law No. 2 of the Year 2002, with all proofs of publication and posting required for adoption; and
4. File certified copies of Local Law No. 2 of the Year 2002 within ten (10) days of adoption with:
 - A) Town Clerk's office, and
 - B) One (1) copy with office of the Secretary of State.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED NO
COUNCIL MEMBER RUFFINO	VOTED NO
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED NO

THIS RESOLUTION WAS NOT ADOPTED.

April 8, 2002

File. rmeratoriumresidentialsubdivision402a

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPNIAK, WHO
MOVED ITS ADOPTION. SECONDED BY
COUNCIL MEMBER MONTOUR, TO WIT:

WHEREAS, DAVID M. SNELL/CARSTAR of Lancaster, 2753 Niagara Falls Boulevard, Amherst, New York 14228, the contract vendee of a parcel of land located on 6705 Transit Road, Lancaster, New York has petitioned the Town Board of the said Town for a change of zoning from CMS with collision repair restrictions to CMS with restrictions removed, and

WHEREAS, the Petition has been referred to the Planning Board of the Town of Lancaster for its recommendation and report;

NOW THEREFORE, BE IT

RESOLVED, that pursuant to Sections 130 and 265 of the Town Law of the State of New York a Public Hearing on the proposed rezone will be held at the Town Hall, 21 Central Avenue, Lancaster, New York, on the 6th day of May, 2002, at 8:30 o'clock P.M., Local Time, and that Notice of the Time and Place of such Hearing be published in the Lancaster Bee, a newspaper of general circulation in said Town on April 11, 2002, and be posted on the Town Bulletin Board, and that Notice of such Hearing be referred to the Erie County Department of Planning, pursuant to Section 239 (m) of the General Municipal Law, which Notice shall be in form attached hereto and made a part hereof.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
COUNCIL MEMBER GIZA	VOTED YES

April 8, 2002

**LEGAL NOTICE
PUBLIC HEARING
DAVID M. SNELL/CARSTAR
TOWN OF LANCASTER**

LEGAL NOTICE IS HEREBY GIVEN, that pursuant to the Town Law of the State of New York and pursuant to a resolution of the Town Board of the Town of Lancaster, and adopted on the April 8, 2002, the said Town Board will hold a Public Hearing on the 6th day of May, 2002 at 8:30 o'clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, to hear all interested persons upon the following proposed amendment to the Zoning Ordinance and Zoning Map of the Town of Lancaster, rezoning the following described real property from CMS with collision repair restrictions to CMS with restrictions removed::

ALL THAT CERTAIN TRACT OR PARCEL OF LAND situate in the Town of Lancaster, County of Erie and State of New York, being part of Lot 12, Section 12, Township 11, Range 6 of the Holland Land Company's Survey bounded and described as follows:

COMMENCING at a point in the west line of Lot 12, (centerline of Transit Road), 1018.00 feet southerly from the north line of Lot 12 (centerline of Wehrle Drive);

THENCE easterly parallel to the north line of Lot 12 a distance of 50.0 feet to the Point or Place of Beginning being the east line of Transit Road as presently laid out;

THENCE continuing easterly and parallel to the north line of Lot 12 a distance of 345.00 feet;

THENCE northwesterly at an interior angle of 60°16'36" a distance of 164.65 feet;

THENCE westerly and parallel with the north line of Lot 12 a distance of 265.00 feet to the east line of Transit Road;

THENCE southerly along the east line of Transit Road 143.00 feet to the Point or Place of Beginning, containing 1.02 acres more or less.

Full opportunity to be heard will be given to any and all citizens and all parties in interest.

**TOWN BOARD OF THE
TOWN OF LANCASTER**

**BY: JOHANNA M. COLEMAN
Town Clerk**

April 8, 2002

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER MONTOUR, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

WHEREAS, Anthony Batog, 540 Ransom Road, Lancaster, New York 14086 has applied for a Dumping Permit for property situated at 540 Ransom Road, within the Town of Lancaster, pursuant to Chapter 22-8 of the Code of the Town of Lancaster, and

WHEREAS, the application was referred to the Building Inspector and Town Engineer for review and recommendation, and

WHEREAS, the Building Inspector and Town Engineer have completed their review and made a formal, favorable recommendation to the Town Board,

NOW, THEREFORE, BE IT

RESOLVED, that Anthony Batog, 540 Ransom Road, Lancaster, New York he and is hereby authorized to dump and dispose of materials outside permitted sanitary landfills within the Town of Lancaster, namely on premises owned by the applicant at 540 Ransom Road, said dumping to be in strict conformance with the application of the petitioner as filed in the Office of the Town Clerk, and,

BE IT FURTHER

RESOLVED, that this permit is conditioned in accordance with the recommendations of the Town Engineer and Building Inspector as follows:

1. Fill shall consist of hard clay, stones, or broken concrete. No building demolition material such as wood, asphalt shingles, asbestos tiles, etc. are permitted.
2. The applicant should also be aware that if he intends to build on any filled area, bore samples along with a structural engineer's report will be required prior to the issuance of a building permit.
3. Access to the site shall be controlled to prevent unauthorized dumping of non-permitted material.
4. Dirt tracked on the road must be cleaned on a daily basis and more frequently if necessary. The Town of Lancaster Police shall stop operation immediately upon complaint of dirty road. Driveway for hauling fill shall be stoned with #3 or #4 stone for 50' from the edge of Ransom Road.

5. Fill area shall be topsoiled and seeded.
6. Dumping will be allowed between the hours of 7 A.M. and 8 P.M. Monday through Saturday. No dumping shall be allowed on Sunday.
7. Dust from the site shall also be prevented from migrating off site.
8. The existing ditch shall be maintained to direct the flow of water to the rear of the property.
9. No fill material shall be placed in or near, within 15' of the existing ditch along the rear of the property.
10. The source of the fill material has been identified as the New York State Department of Transportation reconstruction of Broadway.

BE IT FURTHER

RESOLVED, that no building permit for the construction of any structure on the SBL premises upon which this dumping permit is issued shall be approved by the Town Building Inspector until such time as the Building Inspector certifies in writing to the Town Board that the conditions enumerated in this resolution have been fully complied with, and

BE IT FURTHER

RESOLVED, that pursuant to Chapter 22-8(D)(6) of the Code of the Town of Lancaster the permit authorization granted herein expires one year from date of this resolution.

The question of the adoption of the following resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED NO
SUPERVISOR GIZA	VOTED YES

April 8, 2002

File: RPERMIT.DUM(6-7)

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPIAK, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER ZARBO, TO WIT:

WHEREAS, SBA Properties, Inc., as a contract lessee, 1173 Pittsford-Victor Road, Pittsford, New York, has submitted an application for a Special Use Permit to SBA Properties, Inc. for construction of a 180' self-supporting tower and associated telecommunication building and equipment to be situated on property located on 69 Cemetery Road, Lancaster, New York, in accordance with Chapter 50-41.6 of the Zoning Code of the Town of Lancaster, and

NOW THEREFORE, BE IT

RESOLVED, that pursuant to Chapter 50, Section 50-41.1 et seq. entitled "Communication Towers" of the Code of the Town of Lancaster, a Public Hearing on the proposed Special Use Permit to SBA Properties, Inc. for the construction of a 180' self-supporting tower and associated telecommunication building and equipment to be situated on property located on 69 Cemetery Road, Lancaster, New York, will be held at the Town Hall, 21 Central Avenue, Lancaster, New York on the 6th day of May, 2002 at 8:45 o'clock P.M., Local Time, and that Notice of the time and place of such hearing be published in the Lancaster Bee, a newspaper of general circulation in said Town, and be posted on the Town Bulletin Board, and that a copy of such Notice of Hearing be referred to the Erie County Department of Planning, pursuant to Section 239(m) of the General Municipal Law, which Notice shall be in the form attached hereto and made a part hereof.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

April 8, 2002

File: rsbacommunicationspecialusepermit402

**LEGAL NOTICE
PUBLIC HEARING
TOWN OF LANCASTER
SPECIAL USE PERMIT - SBA NETWORK SERVICES, INC.**

LEGAL NOTICE IS HEREBY GIVEN, that pursuant to the authority set forth in Section 50-41.8 of the Zoning Code of the Town of Lancaster and the Town Law of the State of New York, and pursuant to a resolution of the Town Board of the Town of Lancaster, adopted on the 8th day of April, 2002, the Town Board will hold a Public Hearing on the 6th day of May, 2002 at 8:45 o'clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, to hear all interested persons upon the application for a Special Use Permit to SBA Properties, Inc. for construction of a 180' self-supporting tower and associated telecommunication building and equipment to be situated on property located on 69 Cemetery Road, in the Town of Lancaster, County of Erie, State of New York.

Full opportunity to be heard will be given to any and all citizens and all parties in interest.

**TOWN BOARD OF THE
TOWN OF LANCASTER**

By: **JOHANNA M. COLEMAN**
Town Clerk

April 8, 2002

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO MOVED
ITS ADOPTION. SECONDED BY COUNCIL
MEMBER ZARBO. TO WIT:

WHEREAS, the Chief of Police has notified the Supervisor that the department has two semi-automatic defibrillators (Laerdal Model 3000) which are no longer in use because of the acquisition of newer and better models, and

WHEREAS, Erie Community College North Campus wishes to purchase the units at the price of \$450 each for a total of \$900, which the Chief feels is a fair market price.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster authorizes the sale of two semi-automatic defibrillators (Laerdal Model 3000) to Erie Community College North Campus for a total of \$900.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

April 8, 2002

File: rdefibrillators

**THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER MONTOUR, WHO
MOVED ITS ADOPTION. SECONDED BY
COUNCIL MEMBER STEMPNIAK, TO WIT:**

**WHEREAS, David Smith, 6026 Broadway, Lancaster, New York 14086 has
applied for two (2) Dumping Permits for property situated 6026 Broadway & east of 6139
Broadway, within the Town of Lancaster, pursuant to Chapter 22-8 of the Code of the Town of
Lancaster, and**

**WHEREAS, the applications were referred to the Building Inspector and Town
Engineer for review and recommendation, and**

**WHEREAS, the Building Inspector and Town Engineer have completed their
review and made a formal, favorable recommendation to the Town Board.**

NOW, THEREFORE, BE IT

**RESOLVED, that David Smith, 6026 Broadway, Lancaster, New York be and is
hereby authorized to dump and dispose of materials outside permitted sanitary landfills within the
Town of Lancaster, namely on premises owned by the applicant at 6026 Broadway & east of 6139
Broadway, said dumping to be in strict conformance with the applications of the petitioner as filed
in the Office of the Town Clerk, and**

BE IT FURTHER

**RESOLVED, that this permit is conditioned in accordance with the
recommendations of the Town Engineer and Building Inspector as follows:**

1. Fill shall consist of hard clay, stones, or broken concrete. No building demolition material such as wood, asphalt shingles, asbestos tiles, etc. are permitted.
2. The applicant should be aware that if he intends to build on any filled area, a structural engineer's report will be required prior to the issuance of a building permit.
3. Access to the site shall be controlled to prevent unauthorized dumping of non-permitted material.
4. Dirt tracked on the road must be cleaned on a daily basis and more frequently if necessary. The Town of Lancaster Police shall stop operation immediately upon complaint of dirty road. Driveway for hauling fill shall be stoned with #3 or #4 stone for 50' from the edge of Broadway.
5. Fill area shall be topsoiled and seeded.
6. Dumping will be allowed between the hours of 7 A.M. and 8 P.M. Monday through Saturday. No dumping shall be allowed on Sunday.

7. Dust from the site shall also be prevented from migrating off site.
8. Storm runoff shall be directed to the rear of the property.
9. No fill material shall be placed in the existing flood-plain at the rear of the property.
10. The source of the fill material has been identified as the New York State Department of Transportation reconstruction of Broadway.

BE IT FURTHER

RESOLVED, that no building permit for the construction of any structure on the SBL premises upon which this dumping permit is issued shall be approved by the Town Building Inspector until such time as the Building Inspector certifies in writing to the Town Board that the conditions enumerated in this resolution have been fully complied with, and

BE IT FURTHER

RESOLVED, that pursuant to Chapter 22-8(D)(6) of the Code of the Town of Lancaster the permit authorization granted herein expires one year from date of this resolution.

The question of the adoption of the following resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

April 8, 2002

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA. WHO
MOVED ITS ADOPTION. SECONDED BY
COUNCIL MEMBER MONTOUR, TO WIT:

WHEREAS, the Highway Superintendent of the Town of Lancaster, by letter dated March 26, 2002, has recommended the upgrade of Gary Gallagher from Laborer, Grade 1 to the position of Light Motor Equipment Operator (LEO).

NOW, THEREFORE, BE IT

RESOLVED, that Gary Gallagher, 5 Butler Drive, Lancaster, New York 14086 be and is hereby appointed to the position of Light Motor Equipment Operator (LEO), in the Town of Lancaster Highway Department effective April 15, 2002, and that the salary for this position is \$19.70, as set forth in the Schedule of Salaries adopted by the Town Board on January 1, 2002.

BE IT FURTHER

RESOLVED, that the Supervisor of the Town of Lancaster take the necessary action with the Personnel Officer of the County of Erie to accomplish the foregoing.

The question of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

File: RPERS.APP (P2)

April 8, 2002

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER STEMPNIAK, TO WIT:

WHEREAS, the Highway Superintendent of the Town of Lancaster, by letter dated March 26, 2002, has recommended the upgrade of William Wiepert from Laborer, Grade 1 to the position of Light Motor Equipment Operator (LEO).

NOW, THEREFORE, BE IT

RESOLVED, that William Wiepert, 427 Lake Avenue, Lancaster, New York 14086 be and is hereby appointed to the position of Light Motor Equipment Operator (LEO), in the Town of Lancaster Highway Department, effective April 15, 2002, and that the salary for this position is \$19.70, as set forth in the Schedule of Salaries adopted by the Town Board on January 1, 2002.

BE IT FURTHER

RESOLVED, that the Supervisor of the Town of Lancaster take the necessary action with the Personnel Officer of the County of Erie to accomplish the foregoing.

The question of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

File: RPERSVapers (P12)

April 8, 2002

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

WHEREAS, the Highway Superintendent of the Town of Lancaster, by letter dated March 26, 2002, has recommended the upgrade of **Darryl Ludwig** from Laborer, Grade 1 to the position of Heavy Motor Equipment Operator (HEO).

NOW, THEREFORE, BE IT

RESOLVED, that Darryl Ludwig, 661 Ransom Road, Lancaster, New York 14086 be and is hereby appointed to the position of Heavy Motor Equipment Operator (HEO), in the Town of Lancaster Highway Department, effective April 15, 2002, and that the salary for this position is \$20.11 per hour as set forth in the Schedule of Salaries adopted on January 1, 2002 and established in the Blue Collar CSEA Contract for the position of Heavy Motor Equipment (HEO), regardless of probationary status.

BE IT FURTHER

RESOLVED, that the Supervisor of the Town of Lancaster take the necessary action with the Personnel Officer of the County of Erie to accomplish the foregoing.

The question of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER MONTGOMERY	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

File: RPERSvapers(P13)

April 8, 2002.

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER MONTOUR WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER STEMPIAK, TO WIT:

WHEREAS, NEC Transit William LLC (the "Applicant") with offices at 6495 Transit Road, Bowmansville, New York has petitioned the Town Board of the Town of Lancaster (the "Town") with an application dated March 15, 1999 to amend the Zoning District Map and Zoning Ordinance of the Town to rezone approximately 36 acres of land located at the northeast corner of Transit and William Street in the Town of Lancaster, County of Erie and State of New York which hereinafter shall be referred to as the "Property", and

WHEREAS, the westerly (approximately) 15 acres of the Property is currently zoned as CMS-Commercial and Motor Service District and the easterly (approximately) 21.37 acres of the Property is currently zoned as R-1 Residential District One, and

WHEREAS, such application is to amend the Town's Zoning District Map and Zoning Ordinance to rezone the Property to GB-General Business District which hereinafter shall be referred to as the "Action", and

WHEREAS, the Town's Municipal Review Committee, and the Town Board have reviewed the Action pursuant to the requirements of the State Environmental Quality Review Act and the regulations issued by the New York State Department of Environmental Conservation applicable thereto at 6 NYCRR Part 617 *et seq.* (collectively referred to as "SEQRA"), and

WHEREAS, the Town's Municipal Review Committee and this Town Board, upon consideration of the potential environmental impacts of the Action, in accordance with SEQRA issued a positive declaration at its meeting held on December 3, 2001, and

WHEREAS, the Town Board caused the preparation of a Supplemental Draft Environmental Impact Statement ("SDEIS") dated November, 2001 to supplement the draft environmental impact statement ("DEIS") dated November 8, 1999, and such SDEIS was submitted to the Town's Municipal Review Committee and the Town Board, acting as lead agency, and

WHEREAS, the Town's Municipal Review Committee and Town Board agreed to accept such SDEIS as complete and in accordance with SEQRA on December 3, 2001; and

WHEREAS, the Town's Municipal Review Committee and Town Board undertook a full and thorough review of the SDEIS and has received comments from the public, together with a public hearing which was conducted on December 18, 2001 in the Lancaster Senior Citizens Center located at 100 Oxford Avenue, Lancaster, New York which afforded the public with an opportunity to be heard with respect to the Action, and

WHEREAS, after a full and thorough review of the SDEIS, comments submitted at the above-referenced public hearing on December 18, 2001 and other written comments submitted to the Town Clerk, the Town's Municipal Review Committee and the Town Board determined that the Action required a Final Environmental Impact Statement ("FEIS"); and

WHEREAS, the FEIS was submitted to the Town and after due consideration was accepted for public review at the meeting of the Town's Municipal Review Committee and Town Board held on March 4, 2002; and

WHEREAS, upon full consideration of the FEIS, the Town Board is prepared to issue its Findings Statement with respect to the Action and pursuant to SEQRA; and

WHEREAS, the process undertaken by the Town to review the Action has provided a means for the Town, public agencies, the project sponsors, and the public to systematically consider significant adverse environmental impacts, alternatives and mitigation and this process has allowed the weighing of social, economic and environmental factors early in the planning and decision-making process; and

WHEREAS, as part of the Zoning Ordinance of the Lancaster Town Code, the Town has established a site plan review process at Section 50-43 to control development within allowable zoning districts, and such site plan review process will afford a full and thorough opportunity to control the actual development of the Property, and

WHEREAS, the Town's Draft Comprehensive Plan dated June 1995, prepared for the Town by Saratoga Associates recognized the need to establish a "Transit Road Regional Commercial Corridor" to highlight and promote the existing commercial corridor of land use in the Town along Transit Road, which would serve regional needs, and which plan recommended an increase in the depth of existing commercial and business zoning districts beyond 300 feet to accommodate such regional general business needs, and

WHEREAS, the State of New York has recently undertaken a major project to widen Transit Road adjacent west of the Property from two lanes to five lanes (Department of Transportation Project number 511162) to accommodate and promote vehicular traffic and commercial and business development along Transit Road, and

WHEREAS, such widening of Transit Road between Broadway and French Road as a regional corridor for commercial and business development has been supported by the Town of Lancaster, Village of Lancaster, Town of Cheektowaga, Town of West Seneca and Village of Depew, and

WHEREAS, the Town of Lancaster, Village of Lancaster and Village of Depew have undertaken development of a Comprehensive Plan dated September 1999, with professional planners: Peter J. Smith & Company, Inc., and The Saratoga Associates, which among other things, recommends that the Town of Lancaster update its zoning ordinance and zoning map to include designation of Transit Road as a regional commercial route with adequate depth along such corridor for appropriate commercial and business development able to serve regional needs, and

WHEREAS, the other parcels of land across from the Property, to wit: the northwest, southeast, and southwest corners of the intersection of Transit Road and William Street are all zoned for commercial and business use, and

WHEREAS, the Action or proposed change to the Town's Zoning Ordinance and the Town's Zoning District Map shall be to rezone approximately 33.63 acres to GB - General Business District, and keep the easterly sixty feet of the Property zoned R-1 Residential District One, as a buffer between the GB - General Business district and the MFR - Multifamily Residential District adjacent east of the Property, and

NOW THEREFORE, be it resolved as follows:

1. That amendment of the Zoning Ordinance and Zoning District Map of the Town of Lancaster with respect to the approximate 33.63 acres of land more particularly described on Schedule A, and a sketch of which is shown on Schedule B, both attached and made a part hereof, from CMS-Commercial and Motor Services and Residential District One to a GB-General Business District is approvable after consideration of the FEIS and the Action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable.

2. The Town Board, as lead agency has reviewed and hereby adopts the attached Findings Statement and all of its supporting documentation with respect to the rezoning of the 33.63 acres of land more particularly described in Schedule A, attached hereto and made a part hereof, and incorporates its analysis and findings in this resolution and directs the Town Clerk to file such Findings Statement and this resolution with all appropriate and involved agencies in accordance with the requirements of SEQRA.

3. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED NO
SUPERVISOR GIZA	VOTED YES

**STATE ENVIRONMENTAL QUALITY REVIEW
FINDINGS STATEMENT**

Pursuant to Article 8 (State Environmental Review Act- SEQR) of the Environmental Conservation Law and 6. NYCRR Part 617, the Town Board of the Town of Lancaster, as Lead Agency, makes the following findings:

Name of Action: Gateway Center
Rezoning and retail development

Description of Action: Rezoning of 36.19± acres of land to General Business and subsequent development of a retail center. Rezoning includes 15± acres from Commercial Motor Services to General Business; and 21± acres from Residential District One to GB.

Location: Northeast Corner of Transit Road and William Street
Town of Lancaster, Erie County, New York

Agency Jurisdiction: *Approval for rezoning of the northeast corner of Transit Road and William Street is required by the Town of Lancaster, pursuant to the permitted use provisions of the Town of Lancaster Zoning Code. Retail development at this site is contingent upon receiving this approval. Site plan approval will be required by the Town of Lancaster pursuant to Article VIII, Section 50-43 of the Zoning Code of the Town of Lancaster.*

Date Final EIS Filed: March 1, 2002

Facts and Conclusions in the EIS relied upon to support the decision:

PART I: INTRODUCTION

A Petition was filed by NEC Transit-William LLC, on or about March 15, 1999, requesting the Town Board of the Town of Lancaster to amend the Zoning Ordinance of the Town of

Lancaster to rezone approximately 36 acres of property located at the northeast corner of Transit Road and William Street in the Town of Lancaster, Erie County and State of New York, and which land is shown on a sketch and described in Schedule A of the Town of Lancaster Town Board Resolution dated December 20, 1999.

The Petition requested rezoning of the westerly (approximately) 15 acres of the Property currently zoned as Commercial and Motor Services (CMS); and the easterly (approximately) 21.37 acres of the Property zoned as Residential District One (R1) to General Business (GB) to permit the construction of a regional shopping center to be known as the Gateway Center in Lancaster, New York.

The Town's Municipal Review Committee, after its initial review of the full environmental assessment form (EAF), as submitted in connection with the application, issued a Negative Declaration pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) and the regulations issued by the New York State Department of Environmental Conservation (NYSDEC) applicable thereto at 6NYCRR Part 617.

Thereafter, the Town's Municipal Review Committee upon further consideration of the potential environmental impacts of the project, in accordance with SEQRA determined to re-open the SEQRA proceedings with respect to the project and determined to substitute therefor a positive declaration in accordance with the provisions of the SEQRA, at its meeting held on July 19, 1999.

The Town Board of the Town of Lancaster was designated Lead Agency under SEQRA and collectively with the Town's Municipal Review Committee, NEC Transit-William LLC, and other involved and interested parties, undertook scoping sessions for the project. Thereafter, a Draft Environmental Impact Statement (DEIS), dated November 8, 1999, was prepared for the Town Board for the rezoning application by the NEC Transit-William LLC.

The Town's Municipal Review Committee accepted the DEIS as complete and in accordance with SEQRA on November 15, 1999. A public hearing was scheduled for December 8, 1999 in the Lancaster Senior Senior Citizens Center located at 100 Oxford Avenue, Lancaster, New York, which afforded the public an opportunity to be heard with respect to the project.

Early discussions were held regarding the buffering of the property to the west of the project site during several Town meetings. The suggestion to exclude the buffer strip between the properties was adopted and resulted in the reduction of the area proposed for rezoning to 33.63 acres. The Town held that excluding this area from the rezoning would provide an extra measure of protection to the Northwoods residents from encroachments potentially

incompatible with the residential setting of the neighborhood.

The DEIS and all written comments received during the public comment period including the public hearing were reviewed by the Town Board and Town's Municipal Review Committee and was determined that the project would not have a significant impact on the environment.

On December 20, 1999, the Town Board adopted a resolution issuing a Negative Declaration and amended its Zoning Ordinance to rezone 33.63 acres of the approximately 36 acres to GB. The resolution was challenged in the Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department, in March 2001, by opponents to the project seeking to annul this resolution. The motion was granted by the Supreme Court, and the Town Board was required by the order (CA 00-2115) of the Supreme Court to take the SEQR process to a Final Environmental Impact Statement (FEIS).

The Town Board complied with the Court decision and issued a SEQR Positive Declaration with a Notice of Intent to prepare a Supplemental Draft Environmental Impact Statement (SDEIS). The SDEIS was prepared by the Applicant, for the Town, on the basis of change in circumstances afforded by the Supreme Court decision. The SDEIS was submitted to the Town Board and Town's Municipal Review Committee on November 7, 2001. The Town's Environmental Consultant reviewed the SDEIS for technical content. Following the Town Board's and Town's Municipal Review Committee's review of the SDEIS, a Notice of Completion was issued on December 03, 2001.

A new public comment period was opened commencing on December 4, 2001 and closing on January 4, 2002, which included a public hearing. The public hearing was held on December 18, 2001 at the Lancaster Senior Citizen's Center at 100 Oxford Road, Lancaster, New York.

Incorporating the written responses to all substantive written and oral comments received during the public comment period, an FEIS was subsequently prepared by the Applicant for consideration and review by the Consultant and the Town Board. Following this careful review and analysis, the FEIS was adopted by the Town Board on March 4, 2002 and circulated to the involved agencies and the public. An extended period of approximately 34 days for public review period was established from this date.

The Town Board has carefully and thoroughly reviewed the information contained in the FEIS, Appendices A and B, the SDEIS and its Appendices A to F, and the original DEIS; and found it to be an adequate examination of all important potential impacts which would

result from affirmative action on the subject rezoning application.

Since receipt of the FEIS, the Town Board has received additional comments. The Town Board has carefully considered these additional comments and has determined that the issues raised by such comments were adequately addressed in the EIS.

The Town Board recognizes that qualified experts on any topic may differ in their conclusions and in particular may differ in the judgements employed during analysis. The Town Board acknowledges that the review of this rezoning proposal and the debate over various issues that have been submitted by government agencies, other experts and general public that reflect hundreds of hours of examination of the project. On balance, and after careful consideration of all relevant documentation and comments, the Town Board believes it has more than adequate information to evaluate all of the benefits and potential impacts of this project as a basis for considering the requested rezoning of the Site.

Recognizing that SEQR was developed to foster a careful review by all interested parties of any potentially significant environmental impacts at a time when the discussion of such consequence has the most meaning. This review is conducted prior to any agency decision regarding permits or approvals and when the project is still in its formative stage. This early environmental analysis is appropriate in this case where a rezoning of land is also required prior to project development. The filing of conceptual plans for a major project is common and affords important opportunities to obtain information and help shape the ultimate project that will be presented for more detailed review by the Town Planning Board at its site plan review stage. The environmental review of this rezoning action has afforded the Town Board and other involved agencies a clear understanding of the potential environmental impacts that might arise from the actual construction and operation of the Gateway Center. To the extent possible, the Applicant presented detailed information regarding certain impacts, most notably traffic, wetlands, and noise, which can be reasonably anticipated and analyzed at an early stage of the process. Analysis of other impacts, such as the stormwater run-off, drainage, visual and aesthetic impacts, could only be performed in a conceptual manner and must await the preparation of a detailed site plan. The review of the site plan will advance to its final stage with the Town following completion of the SEQR process. During the final review of the site plan the Town will assess the consistency of the final plans with the details that were considered during the SEQR process and move to a decision on the approval of the site plan after this consideration. The environmental review process has provided the Town Board with a clear understanding of the nature and potential impacts associated with the development of

Gateway Center following the re-zoning of the property. The US Army Corps of Engineers (USACOE) has exclusive jurisdiction over the investigation and appropriate compensation for the loss of wetlands, which are within the boundaries of the Site. The Applicant has been working cooperatively with the USACOE for over three years to evaluate the functions and values, and adequate mitigation of these wetlands, after having considered alternatives to avoid or minimize impacts to them. The Applicant will continue to work closely with the USACOE to ensure that all appropriate steps are taken to ensure "no net loss" of wetlands in the area occur as a result of this project in accordance with their directive. New York State Department of Transportation (NYSDOT) and Erie County Department of Public Works (ECDPW) Highway Division have jurisdiction over roadway changes to the Transit Road and William Street respectively. The decision to re-zone the property will be followed by the issuance of Highway Work Permits from NYSDOT and ECDPW to improve traffic conditions near the Site location. The Applicant has been in close communication with NYSDOT and ECDPW since 1999 to finalize a traffic mitigation plan.

PART II: THE SITE

The members of the Town Board are familiar with the Site, the area surrounding the Site and the retail opportunities in the Town of Lancaster and Erie County.

The proposed action seeks to rezone 13 contiguous parcels, constituting approximately 33.63 acres of land on which the Gateway Center will be constructed. The land is largely undeveloped at this time. The rezone excludes a 2.56 acre strip of upland forested land along the eastern boundary of the Site, which will be preserved as buffer area under a conservation easement.

The Applicant owns and/or controls the approximately 36.19 acres of property to be rezoned. Property to the north of the Project Site, to be preserved as mitigation area includes paper streets owned by the Town. The Town has agreed to allow the inclusion of these non-standard right-of-ways in the preservation plan for long-term green space development within the Town precluding the potential for any future development on them. Town owned property is not part of the area of the Applicant's mitigation plan as currently proposed.

The Project Site is bounded by Transit Road (State Route 78) to the west, William Street (Erie County route 338) to the south, Northwoods Residential Subdivision to the east and undeveloped wooded area to the north.

The eastern boundary of the Property is buffered from the residential subdivision by a 105-foot wide strip of natural property, including the 60-ft wide (2.56 acre) upland forested area

excluded from the re-zoning to preclude commercial encroachments.

The Site contains 7.54 acres of federally regulated wetlands.

PART III: PROPOSED DEVELOPMENT

Applicant plans to construct the Gateway Center Retail Plaza composed of National anchor stores and smaller consumer oriented stores and services, with associated parking. The Applicant is required to obtain Town Board site plan approval prior to constructing the Gateway Center. Site plan approval will allow the Town of further control the development of the Site to assure that the scope of development is consistent with that analyzed in the SEQR process. The Town site plan approval considers, among other issues: ground coverage, setbacks, green spaces, parking spaces, ingress and egress to state highway, sewer, water, drainage, lighting, signage, screening and landscaping.

The Town Board of Lancaster, as lead agency, reviewed a conceptual site plan for the Gateway Center set forth in the SDEIS and FEIS. The detailed site plan to be prepared will take into account the comments of the involved agencies, in particular, the NYSDOT and ECDPW regarding roadway improvements, Erie County Department of Environment and Planning (ECDEP) regarding construction of sanitary sewers, NYSDEC regarding a Stormwater Pollution Prevention Plan, and Erie County Water Authority (ECWA) for water supply connections.

As demonstrated by the EIS, the proposed ±36.19 acre development would convert approximately 33.63 acres (building, parking, driveways, and landscape areas), while providing adequate parking and setbacks, stormwater retention facilities to mitigate any increase in stormwater runoff, leaving 2.56 acres of untouched green buffer at the eastern boundary.

Subsequent to the rezoning of the Site to GB, detailed site plans must be finalized and submitted to the Town for review and approval, including a landscaping plan and storm sewer plan.

Other agencies which must approve various aspects of the proposed development include the Erie County Sewer District No. 4, ECDEP, NYSDOT, ECDPW Highway Division, U.S. Army Corps of Engineers, and NYSDEC.

PART IV: TRAFFIC AND ROADWAY IMPROVEMENTS

The principal roadways to be affected by the construction and operation of the Gateway Center are New York State Route 78 (Transit Road), which falls under the jurisdiction of the

NYSOT; and Erie County Route 338 (William Street) which falls under the jurisdiction of the ECDPW Highway Division.

Applicant has agreed to make the following roadway improvements which will maintain or improve existing Levels of Service at the intersection of Transit Road, William Street and Losson Road:

Add exclusive right-turn lanes on Transit Road on both northbound and southbound approaches to Losson Road/ William Street intersection.

Provide one westbound through-lane on William Street from a point just east of the existing Flix Theater driveway to Transit Road.

Restripe the existing pavement to provide a dual left turn lane on the westbound William Street approach to Transit Road.

Modify the traffic signal at the intersection to include control for the new lane configuration.

Applicant will maintain the number and placement of driveways at the Gateway Center as described:

One primary and one ancillary driveway to Transit Road.

One driveway to William Street.

The primary driveway onto Transit Road will be aligned opposite the signalized Wegman's driveway. The driveway will consist of one inbound lane, two outbound lanes and a raised median.

A right turn lane will be added to the northbound Transit Road approach to the primary driveway.

The existing traffic signal will be modified to provide signal faces for outbound traffic from the primary driveway onto Transit Road.

The ancillary driveway will run north of Martino's restaurant from the Gateway Center onto Transit Road.

The ancillary driveway will have one inbound lane and two outbound lanes. A stop sign will be posted for outbound traffic from this driveway with a right hand turn only.

The single driveway onto William Street will consist of one inbound lane and two outbound lanes.

Add designated left turn lane for eastbound William Street traffic turning into the driveway.

These extensive roadway improvements and access management controls will substantially mitigate the effects of increased traffic resulting from the construction and operation of Gateway Center.

Applicant will bear the cost for design and construction of roadway improvements. Applicant

will be required to Bond the improvements to satisfy Erie County and the NYSDOT requirements.

Once the off-site improvements have been constructed by the Applicant and accepted by the appropriate governmental agencies, maintenance will be performed by those agencies with jurisdiction.

Increase in traffic due to operations at Gateway Center is inevitable. The mitigation proposed by the Applicant alleviates to the best extent possible, the negative impacts of this increase. A minor reduction in the level of service is unavoidable at the Transit Road/Wegmans driveway/Gateway Center primary driveway; and eastbound left turn on Transit Road. William Street intersection.

The Town of Lancaster has formalized the Comprehensive Plan dated 1999, by Peter J. Smith & Company and The Saratoga Associates, which recognizes Transit Road as a regional corridor for commerce. The roadway improvements to Transit Road, resulting from this Project, are in keeping with the commercial objective envisioned for the region in the plan.

The Town has also examined the *Transit Road/French Road Corridor Study* undertaken by the Town of Cheektowaga, wherein, Transit Road has been designated to play an important role in the future transportation and land use planning of the region. The Town of Lancaster agrees that zoning compliance of properties along this New York State Highway requires design creativity and flexibility, bearing in mind the environmental sensitivity along the corridor.

PART V: WETLAND IMPACTS AND MITIGATION

Based on a jurisdictional determination by the USACOE, 7.54 acres of Federal wetlands are located on the Site. Of this total, 7.40 acres will be impacted by the Project. The remaining 0.14 acres will be preserved in the 60-foot wide natural buffer strip that will remain undisturbed along the eastern boundary of the Site.

Prior to any disturbance of the site wetlands, all necessary permits will be obtained from the USACOE and the NYSDEC.

To compensate for wetlands to be impacted by the Project, the Applicant has proposed a wetland mitigation plan that has been accepted by the USACOE. The plan includes approximately 7.14 acres of wetland creation and 10.15 acres of wetland and upland buffer preservation at the two sites in the Cayuga Creek watershed, one immediately north of the Site, the other at the northwest corner of Broadway and Steinfeldt Road. In addition, the Applicant has an agreement with Ducks Unlimited, Inc. to restore and enhance 12 acres of emergent marsh

in the Tonawanda State Wildlife Management Area in Genesee County. The Town believes that the plan, when implemented, will adequately compensate for lost wetlands and associated habitat at the Site.

As outlined in the wetland mitigation plan, the northern mitigation area will be preserved through a conservation easement or other long-term restriction mechanism.

The northern mitigation area located to the north of the Site includes paper streets but the Town will make them available to the Applicant to include for preservation of green space. Town owned property is not part of the Applicant's mitigation plan as currently proposed.

The Town is aware that the northern mitigation area and the eastern strip of natural buffer were once part of a large wooded tract that extended eastward and northward from the Site including land which is now occupied by Northwoods Residential Subdivision. Although large amount of this habitat has been destroyed as a result of development, a fairly expansive wooded habitat remains. The wooded area has provided habitat to whitetail deer and wild turkey and an occasional habitat to red or gray fox. It has also been a transient habitat for raccoon, opossum, eastern striped skunk, eastern cottontail, gray squirrel, meadow vole, moles, shrews and bats. Several bird species have also been resident or transient in these woods. The Site lacks permanent water bodies, therefore limiting the reptilian population to Garter Snake and American Toad. Ponding in wetland areas at the Site typically does not last long enough to support breeding of toads in spring. Therefore most reptilian, bird and mammalian species in the area do not occupy this habitat indefinitely.

PART VI: NOISE IMPACT AND MITIGATION

Ambient noise level at the project Site was measured by the Applicant's consultant and sensitive receptor points were identified in the SDEIS. The sensitive receptors, most likely to be affected by the noise from the Gateway Center are the residents of the Northwoods Subdivision immediately east of the Site. The distance between the townhouses and the retail buildings on the eastern side of the Project is about 200 feet: 42 feet between the townhouses and the Property boundary, and 155 feet between the boundary and the rear of the buildings.

The construction phase of Gateway Center will have some unavoidable noise impact on the residential subdivision. Some level of noise disturbance is anticipated during any construction project. The SDEIS analyzed the noise impact in detail. Applicant will follow "best management practices" in mitigating construction noise at the site. Applicant will also:

Restrict construction activity to daytime hours

Complete ground excavation and site preparation for Phase I and Phase II of construction at the same time, even though Phase II buildings may be constructed at a later time.

Potential sources of noise during operation of Gateway Center have been comprehensively evaluated in the SDEIS and FEIS. Noise from the retail plaza is expected to emanate chiefly from HVAC equipment, traffic movement of trucks, and snow-clearing equipment.

A study in the parking lot of a similar retail development on Transit Road, at a busy time of the year emulated potential noise levels from the proposed Gateway Center parking area. The study indicated that the noise from Gateway Center, received at the Northwoods Subdivision, would be lower than that observed at the analogous development. Parking lot noise will be shielded effectively by the designed layout of the buildings. Noise contribution from the parking lot will therefore be insignificant.

The Applicant has demonstrated scientifically and logically that with the correct design and configuration of the Project, maximum noise from the Site can be mitigated to fall within acceptable daytime and nighttime levels. The Applicant must ensure:

Trucks will be routed to the stores from Transit Road. Trucks will not enter from William Street driveway.

There will be no routine large truck traffic behind the large anchor buildings.

Each store will have limited loading dock-space, which will limit the amount of trucks that can be at the location at any one time.

Deliveries will be coordinated to reduce daily movement of trucks.

Rooftop HVAC will be placed as distant as practicable from the abutting residential properties to decrease the effect on sensitive receptors and be shielded for noise abatement.

Rooftop HVAC for all stores will be procured as per specifications that guarantees noise emission of less than 46 dBA.

There will be no prominent tonal components due to HVAC units.

Noise due to snowplowing in the parking lot will be shielded by the two large buildings. In the rear access road, snow-plowing trucks should either use low-volume, back-up alarms during early daytime hours; or strobe lights in lieu of back-up alarm.

Town of Lancaster experiences varying amounts of snowfall each year. Some inconvenience due to removal of snow is commonly presumed.

Technical investigation by the Applicant's consultant has demonstrated that increase in noise, due to increased traffic on William Street and Transit Road, will not be significant. In a worst-case scenario where the development of Gateway Center could cause doubling of traffic, an increase of 3 dBA would occur under laboratory conditions. Conservatively, even if an

increase in traffic by 50 percent is considered, there would be a logarithmic increase of 1.8 dBA. This increase will be insignificant when added to the existing noise level, which will remain within Noise Level Standards. Therefore, the Town does not find additional noise mitigation measures necessary.

PART VII: DRAINAGE

The Applicant will provide a stormwater management system, which is designed to attenuate peak rates of stormwater flow from the Site equal to that of a 100-year post-development storm to flow no greater than 10-year pre-development storm event.

NYSDOT has indicated to the Applicant that pre-development peak discharge rate should be no greater than 36 c.f.s. Applicant must comply with this prescribed threshold.

The Applicant will follow best management practice for stormwater pollution prevention.

The Applicant will finalize design and follow a Stormwater Pollution Prevention Plan, which will be utilized to allow the use of the State Pollution Discharge Elimination System (SPDES) permit from the NYSDEC. The Applicant must file a Notice of Intent, Termination and Transfer and demonstrate conformance of the Stormwater Pollution Prevention Plan with the SPDES General Permit guidelines.

The detailed storm drainage system for the Site must be included in site plans for review by the Town Engineer, Town Planning Board and Town Board.

The Town is aware that approximately 40 percent of the Site has somewhat poorly drained soil.

The soil is deep, has low permeability and slow run-off and the available water capacity is moderate to high, thus limiting the use of the Site for urban development. However, with the use of drains around foundations, the seasonal high water table will be considerably reduced, and grading will help eliminate surface wetness.

The design water levels for the stormwater management system will be set to preclude negative drainage conditions upstream of the basin area.

The stormwater management and treatment system will be constructed to dissipate energy and prevent scouring at the basin inlets. In addition, the system will provide extended detention for pollution removal, and discharge to an area in which natural processes will provide further polishing of the stormwater prior to release into the existing drainage network.

Stormwater conveyance structure will be inspected routinely to ensure proper operation. The Applicant will perform regular preventative maintenance and cleaning, including removal of debris from the catch basin, and pre-treatment areas, to minimize pollutant entering the stormwater management system.

PART VIII: LIGHTING IMPACT AND MITIGATION

Like any other large retail shopping center, Gateway Center can be expected to have lighting impact on receptors in the vicinity. The SDEIS elaborates the impact from lighting fixtures and has been satisfactorily discussed in the EIS. Town has agreed that the Applicant should to the extent practical:

Utilize flat lenses on pole mounts to minimize light spillage onto adjacent property

Plant more trees in the landscaped buffer area to the east to further shield from light glow.

Glare from headlights of vehicles and delivery trucks approaching the anchor stores are likely to have some impact. The buildings will block most of the light from vehicles except where the gaps between the buildings occur. The Applicant should, to the extent practical:

Erect fencing to cover the gaps between buildings to the east, so headlights will be screened from the eastern boundary line

Plant conifers with low or ground level branch spread in the landscaped buffer area to screen the diffused light.

PART IX: BUFFERING

Gateway Center will change the existing character of the Site, which is presently unoccupied, to high density commercial. The Town realizes the importance of protecting the quality of life in the residential zone to the immediate east of the Site.

The SDEIS and FEIS described a buffer zone, 105 feet wide, along the eastern property line. This buffer will comprise a 60-foot wide existing natural wooded area that will remain, and a 45-foot side landscaped area. The landscaped buffer zone will be comprised of conifers to screen contrast between the properties. Two species have been recommended by Cornell Cooperative Extension as being disease resistant and appropriate for site conditions: Austrian Pine and Douglas Fir. These species have been utilized in the site landscaping plan to provide the species with good viability. In addition, a rapid growing hybrid willow (Austree) is proposed within the landscaped area to provide the intended screening in the earliest possible time.

The Town's Forestry Department has accepted the landscape plan dated November 1, 2001 with the condition that:

the treeline along the eastern edge will have a minimum 30 foot centers; and
number of trees in the landscaped buffer zone be increased.

The Applicant has agreed to the conditions and will provide for the appropriate spacing

and number of trees consistent with the accepted plan.

The use of herbicides and fertilizers in stabilizing permanent vegetation and maintaining any temporary vegetation during construction will be restricted in order to prevent contamination in run-off.

PART X: TAXES

The Gateway Center is expected to generate approximately between \$350,000 and \$500,000 in new annual revenues to district taxes and \$1,500,000 to \$3,000,000 in annual sales taxes.

Since the Project will draw from local labor and service local or regional customers, an additional benefit will be realized from the money that is earned and spent within the community. In addition, the lack of demand on community services will provide an indirect benefit to the community.

The Town has determined that rezoning of the Site and operation of the Gateway Center would produce larger net tax benefits as compared to the functionality of the Site under present zoning and land use.

PART XI: EMPLOYMENT

Construction and operation of Gateway Center is expected to add approximately 1,400 employment positions to the region's economy, approximately 350 of which will be fulltime positions and approximately 350 will be part-time, assuming full project build-out and operation. Construction of the retail center will involve the generation of approximately 700 construction jobs.

Many jobs in the National retail chain stores involve versatile career options in many different departments of retail business such as assets management, quality assurance, operations, logistics, marketing, merchandizing etc. Retail centers create opportunity for clerical, maintenance and technical expertise. They may also offer on-the-job training. While most jobs may be hourly wage jobs, they provide flexibility especially for youth and senior citizens. Hourly paid jobs are often advanced to Associate jobs, which offer valuable fringe benefits including health insurance, bonuses, profit sharing, retirement plans and other benefits.

The Town of Lancaster recognizes the value of these jobs to the community in terms of betterment of personal income, and the benefits to job-seekers.

PART XII: MASTER PLAN

The Town has considered the environmental impacts of the proposed rezoning and its compatibility with the currently proposed Comprehensive Plan. The Comprehensive Plan dated June 1999, represents the current thinking for not only Town of Lancaster, but also its neighbors: The Village of Depew and Village of Lancaster. The Plan has been recently approved by these two communities and has received a recommendation for approval from the Planning Board of the Town of Lancaster.

The Comprehensive Plan recognizes the growth and development in the Town as positive influences and helps identify areas of opportunity for continued revitalization of the community. The Plan also promotes an appropriate level of mix of industrial, commercial, residential, recreational and open space land use.

The Property in question is located along Transit Road, which has been recognized in the Comprehensive Plan, as a regional corridor for commerce. The State of New York had recently undertaken a major project to widen Transit Road from two lanes to five lanes, adjacent west of the Property, to accommodate and manage vehicular traffic and commercial development along Transit Road. The widening of Transit Road between Broadway and French Road as a regional corridor for commercial and business development has been supported by the Town of Lancaster, Village of Lancaster, Town of Cheektowaga, Town of West Seneca and Village of Depew.

The Town finds that the Project meets the land use and dimensional criteria, and the objective of the regional commercial corridor; and therefore is in compliance with the Regional Comprehensive Plan.

PART XIII: ALTERNATIVES

In accordance with SEQRA Regulations, the SDEIS contained discussion of alternatives to the requested rezoning.

Alternatives considered included the "No-Action Alternative" including a "no-build" scenario and a "as-of-right" alternative without rezoning the Property, alternative sites, and alternative layout and design.

The Town finds that these alternatives prohibit the optimum use of land due to ecological or economic constraints.

The As-of-Right alternative could result in use of the Property for vehicle retail, repair and servicing facilities, or motels and warehouses under the existing CMS zoning. This would be more damaging to the environment and less profitable to the local economy. Threat of

spillage or leakage of fuel or chemicals would be far greater, while also creating more noise, air pollution and traffic under CMS. The existing zoning allows potential for smaller and more numerous parcels, which can cause greater traffic hazard because of multiple curb cuts and lack of access management.

The Town finds that the Applicant has demonstrated an ability and willingness to conduct activities in an environmentally sensitive manner, meeting the standards imposed by Federal, State and Local involved or interested agencies.

The configuration of the site, proximity to related shopping opportunities, relatively moderate environmental impacts, availability of public infrastructure to service the site were not available at the alternative sites considered.

Accordingly, the Town is satisfied that the applicant has adequately shown that the alternatives to re-zoning at the proposed Site are not feasible in light of the overall objectives of the project sponsor and the Town.

PART XIV: MISCELLANEOUS

In the Petition to rezone, the Applicant incorporated a number of measures that would mitigate or eliminate the significant and potential environmental impacts associated with the development of Gateway Center. These mitigation measures are presented in Section 6 of the SDEIS and throughout the FEIS. They are summarized below.

Exterior lighting will be arranged such that adjacent property on the eastern side will be protected from glare or light intrusion. Flat lenses will be used to prevent bubble glow were necessary.

Traffic congestion along Transit Road and William Street will be mitigated to the extent the existing level of service can be maintained or improved. This will be achieved through measures stated in Part IV of this Findings Statement.

The Applicant will mitigate impacts to wetlands on site by creating replacement wetlands off-site and preserving a high quality wooded area north of the Site, as well as working out a cooperative plan with Ducks Unlimited, following concurrence with the USACOE on the mitigation plan. The NYSDEC will be required to issue Water Quality Certification during the USACOE's permit approval process.

Some soil erosion will occur during construction as a result of clearing, grubbing, grading, excavating and other earth-moving operations. Sediment loading to surface waters will be minimized by conventional temporary and permanent erosion and sediment control measures (e.g. silt fences and hay bales, rip-rap lined channels, and sedimentation basins

etc.) during construction. Permanent drainage swales and a detention basin will be used to reduce sediment after construction. The total area of soil disturbance will be minimized by construction sequencing. These measures coupled with the relatively flat topography of the site, should adequately mitigate impacts from sedimentation and erosion. The Applicant will be responsible for maintenance, inspection and preventative maintenance of sediment and erosion control features post-construction. Undeveloped but disturbed areas must be seeded and maintained with successful vegetative cover.

Building foundation will not be laid on bedrock, which has been shown by sewer installation work on Transit Road to be 10 feet below surface. Site specific earth borings have been made on the site to assess subsurface geotechnical conditions for foundation design. The borings confirmed that bedrock should not be encountered during site construction. Therefore, no impact to bedrock should occur.

Best management practices, such as conventional air emission control devices, will be used for construction equipment, to minimize impact to the existing air quality. Site preparation and other construction activities can be expected to generate fugitive dust. Applicant must control fugitive dust by minimizing area of exposure, spraying water during dry conditions and operating construction vehicles at appropriate speed throughout the construction phase of the Project. The 60 foot wide treed-buffer will help filter suspended particulate matter from the project site. At the operational phase, some pollution from commuter and maintenance vehicles is inevitable, though not significant. Operational air quality impairment cannot reasonably be expected to be significant in consideration of conditions at similar type and scale of development.

The 105-foot buffer at the eastern property line will help mitigate visual, aesthetic and light impacts to the residents at the Northwoods Subdivision. Additional plantings will be planted in the 45-foot wide landscaped area in the rear of the buildings. The requirements for the buffer are stated in Part VII of this Findings Statement.

Noise impact to the residential subdivision to the east of the Project must be minimized as per measures stated in Part VI.

Cultural Resource Investigation on the Site and 10 acres northward thereof, has shown that the structures on and around the Site are excluded from the State or National Register of Historic Places. Location of the Site in relation to Slate Bottom and Cayuga Creeks renders it potentially archaeologically sensitive. Phase IB testing undertaken for the Site excluding wetlands and previously disturbed sites, however, did not identify any cultural material. The results were conveyed to the Office of Parks, Recreation and Historic Preservation (OPRHP) in August 2001. OPRHP concurred that there will be no impact upon cultural

resources in or eligible for inclusion in the State and National Registers of Historic Places. Review of the State's sensitivity mapping indicates the proposed mitigation site located near the intersection of Broadway and Steinfeldt Road is well outside of any mapped areas of sensitivity. This independent review was undertaken originally to assess the need for a comprehensive cultural resources investigation of the site. The request to provide additional information regarding this site appears to have been made in error, presumably based on a poor description of the project location.

The eight foot high stockade fences constructed between the gaps in the buildings along the eastern property line will help ameliorate the visual impact of the lighting and contrast of the commercial building.

PART XV: CONCLUSION

The process undertaken by the Town to review the Gateway Center Project has provided a means for agencies, the project sponsors, and the public to systematically consider significant adverse environmental impacts, alternatives and mitigation. The process has allowed the weighing of social, economic and environmental factors early in the planning and decision-making process.

A direct social benefit of the retail development would be the added convenience to consumers from adjacent residential communities. As opposed to traveling farther distances along busy traffic routes, they will be able to avail themselves to the goods and services offered by National Retail vendors, in their own neighborhoods. Collectively, Wegman's Food Market, Plix Theater, restaurants, a gas station, and Eckerd's drug store in the direct vicinity of the Gateway Center, will be able to cater to most retail, food, entertainment and leisure-time demands of the local community.

The Town of Lancaster, with a population of approximately 35,000 people, presently does not have any discount retail department stores within the Town. Tremendous local support for the project has been expressed in favor of such a development as indicated by the approximately 4,000 signatures presented on various petitions and numerous letters of support over the past 2-3 years. This support indicates the need and desire for this type of shopping alternative within the Town of Lancaster. The nearest similar store is an older K-Mart in the Town of Cheektowaga, which may face closure in light of the recent bankruptcy filing by K-Mart.

Typically, the primary local source of tax revenue from the retail development will be from

property taxes. As compared to annual tax revenue of \$35,400 from small land parcels presently occupying the land under CMS and R1 zoning, the retail development is expected to generate between \$350,000 to \$500,000 in property taxes, upon rezoning the entire site to GB. This estimate is based upon the approximately 250,000 to 300,000 square footage that is proposed for construction. The Town of Lancaster and Erie County will also derive \$1,500,000 to \$3,000,000 annually in sales taxes from the retail plaza. Due to the nature of the proposed development (i.e. retail), IDA tax breaks would not apply, thus avoiding the dilution of the economic benefit.

A leading benefit of the project is to induce economic impetus that is much needed in a community where residential expansion is disproportionately outgrowing commercial and industrial development and to satisfy local consumer demands. The Town of Lancaster's current draft Comprehensive Plan also recognizes the advantages of growth in the Town in the following statements:

- growth and development can be very positive influences.
- promote an appropriate level and mix of industrial, commercial, residential, recreational, and open space land uses, and
- identify areas of opportunity for continued revitalization of the community.

The Town of Lancaster and Villages of Lancaster and Depew have been in the process of updating their Master Plans for several years, resulting in the current draft of "A Comprehensive Plan" dated June 1999 by Peter J. Smith & Company, Inc. and The Saratoga Associates. This Regional Comprehensive Plan for the Town of Lancaster, Village of Lancaster and Village of Depew celebrates the interdependence of the communities, presents a shared vision for their future, and encourages a cooperative approach to achieving community land use, development and transportation goals. This Comprehensive Plan has recently been approved by the Villages of Lancaster and Depew and received a recommendation for approval from the Town of Lancaster's Planning Board.

The Regional Comprehensive Plan developed by the Town of Lancaster, Village of Lancaster and Village of Depew in September 1999 also recommended designating Transit Road as regional commercial route with adequate depth to accommodate commercial development to serve regional needs. The development of the Gateway Center is just one such application of this plan.

Another direct economic impact of the Gateway Center would be on the Flix theater across the project site on William Street. As the Gateway Center builds out the potential for shared customers through greater exposure may increase business for the complex. Business is slow for the Flix theater at present, as it is difficult to compete with other movie theater chains which are supported by major commercial development in their vicinity.

Similarly, sales at Wegmans Food Market across from the site on Transit Road are also expected to improve due to the development of Gateway Center. The Gateway Center will provide more exposure to the neighboring businesses and attract more people more frequently. This will lead to increased sales caused by the economic multiplier effect associated with commercial development. The success of a large commercial complex amidst residential neighborhoods will help the Town of Lancaster realize its goal to balance its residential growth with commercial growth and achieve a symbiotic relationship between the two.

The weighing and balancing of environmental impacts against social, economic and other considerations has included a range of issues touching all the relative physical conditions of the site as well as the existing community or neighborhood character. The concentrated study of wetlands, traffic, stormwater drainage, noise, air quality, and cultural resources have found that some impacts will be unavoidable, but through significant efforts to avoid, minimize or mitigate impacts have moderated those impacts to a level that, in balance with the overall benefits of the project, allows the Town to approve the project.

CERTIFICATION OF FINDINGS TO APPROVE

Having considered the Supplemental Draft EIS and Final EIS, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 N.Y.C.R.R. 617.11, this Statement of Findings certifies that:

1. The requirements of 6 N.Y.C.R.R. Part 617 have been met.
2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives available, the action is one which avoids or minimizes adverse environmental effects to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized by incorporating as conditions to the decision those mitigative measures which were identified as practicable.

TOWN OF LANCASTER TOWN BOARD

Robert H. Giza
Signature of Responsible Official

Robert H. Giza
Name of Responsible Official

Supervisor
Title of Responsible Official

April 8, 2002
Date

21 Central Avenue, Lancaster, New York 14086
Address of Agency

SCHEDULE A
DESCRIPTION OF PROPERTY TO BE RE-ZONED GB - GENERAL
BUSINESS DISTRICT LOCATED ON TRANSIT ROAD
NORTH OF WILLIAM STREET
LANCASTER, NEW YORK

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Lancaster, County of Erie, State of New York, being part of Lot 94, Township 10, Range 6 of the Buffalo Creek Indian Reservation and more particularly described as follows:

COMMENCING at a point in the centerline of William Street with the intersection of the original centerline of Transit Road; Thence East along the centerline of William Street, a distance of 355.75 feet to a point; Thence North a distance of 40.01 feet to the **POINT OF BEGINNING**.

Thence North, a distance of 316.25 feet to a point;

Thence West, a distance of 324.34 feet to a point;

Thence North, along the easterly line of Transit Road, a distance of 141.63 feet to a point;

Thence West, a distance of 5.5 feet to a point;

Thence North, along the easterly line of Transit Road, a distance of 839.25 feet to a point;

Thence East, a distance of 572.70 feet to a point;

Thence North, parallel with the original centerline of Transit Road, a distance of 578.03 feet to a point;

Thence East, along the north line of Lot 94, a distance of 434.34 feet to a point;

Thence South, parallel with said centerline of Transit Road, a distance of 1879.58 feet to a point;

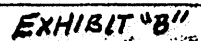
Thence West, along the north line of William Street (being 50 feet wide), a distance of 434.49 feet to a point;

Thence North, a distance of 15.00 feet to a point;

Thence West, along the north line of William Street (being eighty feet wide), a distance of 267.15 feet to **THE POINT AND PLACE OF BEGINNING**.

Containing 33.63 +/- acres of land.

PROPERTY SKETCH



THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER MONTOUR WHO
MOVED ITS ADOPTION. SECONDED BY
COUNCIL MEMBER RUFFINO. TO WIT:

WHEREAS, NEC Transit William, LLC (the "Applicant") with offices at 6495 Transit Road, Bowmansville, New York has petitioned the Town Board of the Town of Lancaster (the "Town") with an application dated March 15, 1999 to amend the Zoning District Map and Zoning Ordinance of the Town to rezone approximately 36 acres of land located at the northeast corner of Transit and William Street in the Town of Lancaster, County of Erie and State of New York which hereinafter shall be referred to as the "Property", and

WHEREAS, the westerly (approximately) 15 acres of the Property is currently zoned as CMS-Commercial and Motor Service District and the easterly (approximately) 21.37 acres of the Property is currently zoned as R-1 Residential District One, and

WHEREAS, such application to amend the Town's Zoning District Map and Zoning Ordinance is to rezone the Property to GB-General Business District, which hereinafter shall be referred to as the "Action", and

WHEREAS, such application has been referred to the Planning Board of the Town for its review, recommendation and report, and in accordance with applicable provisions of the Town Law of the State of New York, and public hearings on the proposed rezone of the Property were held on June 7, 1999 and on March 4, 2002 at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, and

WHEREAS, notice was given as to such public hearings and published in the Lancaster Bee, a newspaper of general circulation in the Town and also posted on the Town bulletin board and that notice of the Action and of such hearing has been referred to the Erie County Department of Environment and Planning pursuant to § 239 (m) of the General Municipal Law, and

WHEREAS, the Town's Municipal Review Committee and the Town Board have undertaken a review of the application to rezone the Property in accordance with the ordinances of the Town and the New York State Environmental Quality Review Act, and the regulations issued by the New York State Department of Environmental Conservation applicable thereto at 6 NYCRR Part 617 *et seq.* (collectively referred to as "SEQRA"), and

WHEREAS, after giving due consideration to the comments of the general public derived from the above-referenced public hearing, the recommendations of the Town's Municipal Review Committee with respect to such petition to rezone the Property and upon a thorough review and consideration of the Supplemental Draft Environmental Impact Statement

("SDEIS"), the Final Environmental Impact Statement ("FEIS") and the Findings Statement issued in accordance with the SEQRA, and

WHEREAS, the Town's Draft Comprehensive Plan dated June 1995, prepared for the Town by Saratoga Associates recognized the need to establish a "Transit Road Regional Commercial Corridor" to highlight and promote the existing commercial corridor of land use in the Town along Transit Road, which would serve regional needs, and which plan recommended an increase in the depth of existing commercial and business zoning districts beyond 300 feet to accommodate such regional general business needs, and

WHEREAS, the State of New York has recently undertaken a major project to widen Transit Road adjacent west of the Property from two lanes to five lanes (Department of Transportation Project number 511162) to accommodate and promote vehicular traffic and commercial and business development along Transit Road, and

WHEREAS, such widening of Transit Road between Broadway and French Road as a regional corridor for commercial and business development has been supported by the Town of Lancaster, Village of Lancaster, Town of Cheektowaga, Town of West Seneca and Village of Depew, and

WHEREAS, the Town of Lancaster, Village of Lancaster and Village of Depew have undertaken development of a Comprehensive Plan dated September 1999, with professional planners: Peter J. Smith & Company, Inc., and The Saratoga Associates, which among other things, recommends that the Town of Lancaster update its zoning ordinance and zoning map to include designation of Transit Road as a regional commercial route with adequate depth along such corridor for appropriate commercial and business development able to serve regional needs, and

WHEREAS, the other parcels of land across from the Property, to wit: the northwest, southeast, and southwest corners of the intersection of Transit Road and William Street are all zoned for commercial and business use, and

WHEREAS, the rezone of the Property is consistent with and in furtherance of the intent and objectives of the Town's Comprehensive Plan for land use and the Town's Zoning Code, and

WHEREAS, the Town's Municipal Review Committee and the Town Board have recognized the needs of balancing commercial development within the Town and the needs of residential users, in particular, the needs of property owners and residents located east and adjacent to and across from the Property, and

WHEREAS, the Town Board and the Applicant for the rezoning of the Property desire to establish an effective buffer between the MFR – Multifamily Residential District adjacent east of the Property and the real property to be rezoned as GB – General Business District, and

WHEREAS, the Applicant has offered to establish a buffer of one hundred five feet (105') measured from the east line of the Property, which land will provide for berms, trees and other natural vegetation to effectively separate different land uses, and

WHEREAS, the Applicant has no objection to the easterly sixty feet of the Property, within such one hundred five foot buffer area, remaining zoned R-1-Residential District One, in order, among other things, to protect the environmental quality of the residents and owners of the land adjacent east of the Property, and

WHEREAS, the Action or proposed change to the Zoning Ordinance and the Town's Zoning District Maps shall be to rezone approximately 33.63 acres, the westerly (approximately) 15 acres of which is zoned as CMS – Commercial and Motor Service District and the easterly (approximately) 18.78 acres of which is currently zoned as R-1-Residential District One, all to become zoned GB – General Business District, and

WHEREAS, the Town Board is authorized and has jurisdiction with respect to all zoning matters within the boundaries of the Town of Lancaster.

NOW THEREFORE, be it resolved as follows:

1. The Town's Zoning Ordinance and Zoning Map with respect to the real property located at the northeast corner of Transit Road and William Street, more particularly described by metes and bounds in Schedule A, attached hereto and made a part hereof, are hereby amended and changed from CMS – Commercial and Motor Services District and R-1 – Residential District One to GB – General Business District.

2. The Town's Zoning Ordinance and Zoning Map with respect to the easterly sixty feet (60') of the Property shown on the sketch on Schedule B and which land is more particularly described in Schedule C (such schedules are attached hereto and made a part hereof), shall remain unchanged as R-1 – Residential District One.

3. That such 60 foot strip of land shall remain as land dedicated to forestry purposes and shall be subject to a conservation easement to be granted by the owner of such Property, which shall be placed on record in the Office of the Erie County Clerk, upon terms and conditions to be satisfactory and acceptable to the attorney for the Town in accordance with this Resolution.

4. This zoning approval shall take effect upon the filing of the Town's Findings Statement in accordance with the SEQRA and subsequent publication of the notice of adoption of the amendment to the Town Zoning Ordinance and Town Zoning District Map.

5. That the said ordinance amendment be added in the Minutes of the Town Board of the Town of Lancaster held on the 8 day of April, 2002.

6. That a certified copy thereof be published in the Lancaster Bee or another newspaper of general circulation and that affidavits of such publication be filed with the Town Clerk.

7. That a certified copy of this Resolution be delivered to the Eric County Department of Environment and Planning and the Town Attorney and Town Clerk are hereby directed to take any and all other actions necessary to comply with applicable law with regard to the amendment of the Zoning Ordinance and Zoning District Map of the Town of Lancaster.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED NO
SUPERVISOR GIZA	VOTED YES

April 8, 2002

File: rwilliamtransit48b

SCHEDULE A

DESCRIPTION OF PROPERTY TO BE RE-ZONED GB - GENERAL

BUSINESS DISTRICT LOCATED ON TRANSIT ROAD

NORTH OF WILLIAM STREET

LANCASTER, NEW YORK

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Lancaster, County of Erie, State of New York, being part of Lot 94, Township 10, Range 6 of the Buffalo Creek Indian Reservation and more particularly described as follows:

COMMENCING at a point in the centerline of William Street with the intersection of the original centerline of Transit Road; Thence East along the centerline of William Street, a distance of 355.75 feet to a point; Thence North a distance of 40.01 feet to the **POINT OF BEGINNING**.

Thence North, a distance of 316.25 feet to a point;

Thence West, a distance of 324.34 feet to a point;

Thence North, along the easterly line of Transit Road, a distance of 141.63 feet to a point;

Thence West, a distance of 5.5 feet to a point;

Thence North, along the easterly line of Transit Road, a distance of 839.25 feet to a point;

Thence East, a distance of 572.70 feet to a point;

Thence North, parallel with the original centerline of Transit Road, a distance of 578.03 feet to a point;

Thence East, along the north line of Lot 94, a distance of 434.34 feet to a point;

Thence South, parallel with said centerline of Transit Road, a distance of 1879.58 feet to a point;

Thence West, along the north line of William Street (being 50 feet wide), a distance of 434.49 feet to a point;

Thence North, a distance of 15.60 feet to a point;

Thence West, along the north line of William Street (being eighty feet wide), a distance of 267.15 feet to **THE POINT AND PLACE OF BEGINNING**.

Containing 33.63 +/- acres of land.

PROPERTY SKETCH

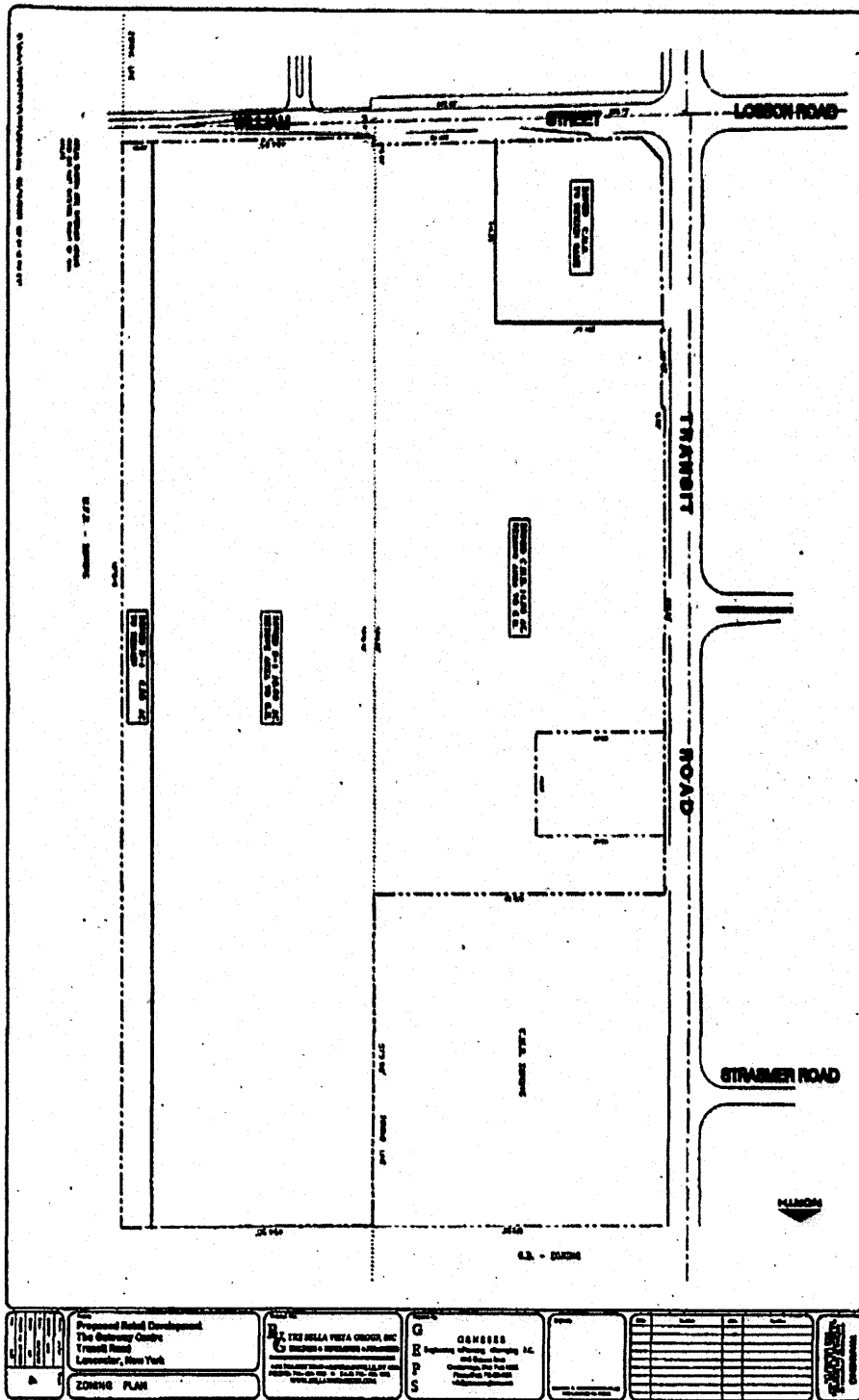


EXHIBIT "B"

SCHEDULE C

DESCRIPTION OF LAND CURRENTLY ZONED

R-1 TO REMAIN ZONED R-1

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Lancaster, County of Erie, State of New York, being part of Lot 94, Township 10, Range 6 of the Buffalo Creek Indian Reservation and more particularly described as follows:

COMMENCING at a point in the centerline of William Street, a distance of 1057.39 feet easterly of the intersection of the original centerline of Transit Road; Thence North a distance of 25.00 feet to the **POINT OF BEGINNING**:

Thence North, a distance of 1888.05 feet to a point;

Thence East, a distance of 60 feet to a point;

Thence South, a distance of 1879.58 feet to a point;

Thence West, along the northerly line of William Street, a distance of 60 feet to the **POINT AND PLACE OF BEGINNING**.

Containing 2.58 ± acres of land.

LEGAL NOTICE
NOTICE OF ADOPTION OF AMENDMENT
ZONING ORDINANCE, TOWN OF LANCASTER
NEC TRANSIT WILLIAM LLC
NORTHEAST CORNER OF TRANSIT ROAD
AND WILLIAM STREET, TOWN OF LANCASTER

LEGAL NOTICE IS HEREBY GIVEN, that the Zoning Ordinance of the Town of Lancaster is hereby amended and the Zoning Map of said Town is hereby changed so that the real property hereinafter described is changed from a CMS - Commercial and Motor Service District and R-1 Residential District One to GB - General Business District.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Lancaster, County of Erie, and State of New York, being part of Lot 94, Township 10, Range 6 of the Buffalo Creek Indian Reservation and more particularly described as follows:

COMMENCING at a point in the center line of William Street with the intersection of the original centerline of Transit Road; Thence East along the centerline of William Street, a distance of 355.75 feet to a point; Thence North a distance of 40.01 feet to the **POINT OF BEGINNING**.

Thence North, a distance of 316.25 feet to a point;

Thence West, a distance of 324.34 feet to a point;

Thence North, along the easterly line of Transit Road, a distance of 141.63 feet to a point;

Thence West, a distance of 5.5 feet to a point;

Thence North, along the easterly line of Transit Road, a distance of 839.25 feet to a point;

Thence East, a distance of 572.70 feet to a point;

Thence North, parallel with the original centerline of Transit Road, a distance of 578.03 feet to a point;

Thence East, along the north line of Lot 94, a distance of 434.34 feet to a point;

Thence South, parallel with said centerline of Transit Road, a distance of 1879.58 feet to a point;

Thence West, along the north line of William Street (being 50 feet wide), a distance of 434.49 feet to a point;

Thence North, a distance of 15.00 feet to a point;

Thence West, along the north line of William Street (being eighty feet wide), a distance of 267.15 feet to **THE POINT AND PLACE OF BEGINNING**.

Containing 33.63 +/- acres of land.

April 8, 2002

STATE OF NEW YORK :


COUNTY OF ERIE : ss:

TOWN OF LANCASTER:

This is to certify that I, JOHANNA M. COLEMAN, Town Clerk of the Town of Lancaster in the said County of Erie, have compared the foregoing copy of a Rezone- NEC Transit William LLC., with the original thereof filed in my office at Lancaster, New York on the 8th day of April 2002, and that the same is a true and correct copy of said original, und of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of this Town this 8th day of April 2002.



ss/ 

Johanna M. Coleman, Town Clerk

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO MOVED ITS
ADOPTION, SECONDED BY COUNCIL
MEMBER MONTOUR, TO WIT:

RESOLVED, that the following Audited Claims be and are hereby ordered paid from
their respective accounts as per abstract to be filed in the Office of the Town Clerk by the
Director of Administration and Finance, to wit:

Claim No. 13477 to Claim No. 13740 Inclusive

Total amount hereby authorized to be paid: \$1,173,195.06

The question of the foregoing resolution was duly put to a vote on roll call
which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

April 8, 2002

File: Reclaims

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPNIAK, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

RESOLVED that the following Building Permit Applications be and
are hereby reaffirmed:

CODES:

(SW) = Sidewalks as required by Chapter 12-1B. of the Code of the Town Lancaster are waived for this permit.

(CSW) = Conditional sidewalk waiver.

(V/L) = Village of Lancaster

TABLED PERMIT:

Pmt #	Applicant Name	Address	Structure
8711	Voicestream Wireless	0 Penora St	Er. Com. Tower

NEW PERMITS:

8869	Smith, Eric	5245 William St	Er. Shed
8870	Danni, Michael	6 Park Walk	Er. Res. Add.
8871	Duro Shed Inc	40 Trentwood Trl N	Er. Shed
8872	Ziomek, Raymond	7 Regency Ct	Er. Shed
8873	Donato Developers Inc	5092 William St	Er. Dwlg.-Sin.
8874	Duro Shed Inc	152N Maple Dr	Er. Shed
8875	Premier Self Storage	3953 Walden Ave	Er. Sign-Temp
8876	Ryan Homes Inc	8 Creekwood Dr	Er. Dwlg.-Sin.
8877	Arrow Signs	5809 Broadway	Er. Sign-Temp
8878	Colley's Pool Sales	51 Via Donato E	Er. Pool-In Grnd
8879	Colley's Pool Sales	199 Enchanted Forest S	Er. Pool-In Grnd
8880	Wojciechowski, Linda	199 Enchanted Forest S	Er. Fence
8881	Colley's Pool Sales	31 Katelyn Ln	Er. Pool-In Grnd
8882	Filippi, Michael	31 Katelyn Ln	Er. Fence
8883	Devon Mobile Comm.	79 Sheldon Ave	Er. Com. Tower (V/L)
8884	Capretto Enterprises	39 Quail Run Ln	Er. Dwlg.-Sin.
8885	Capretto Enterprises	41 Quail Run Ln	Er. Dwlg.-Sin.
8886	Klock, Mark	123 Lake Ave	Er. Sign (V/L)
8887	Rine, Patrick	592 Pleasant View Dr	Er. Res. Add.
8888	Schunk, Patrick	14W Payne St	Er. Deck (V/L)
8889	Marrano/Marc Equity	39 Summerfield Dr	Er. Dwlg.-Sin.
8890	American Fence Co	15 Idlebrook Ct	Er. Fence
8891	All Craft Inc	67 Gale Dr	Er. Res. Add.
8892	Zappia, Donald	99 Aurora St	Er. Comm. Alt. (V/L)
8893	Lovejoy Builders Inc	23 Ann Marie Dr	Er. Dwlg.-Sin.

8894	Bradford, Douglas	11 Wilkshire Pl	Er. Shed	(V/L)
8895	Crown Atlantic Co LLC	3979 Walden Ave	Er. Com. Tower	
8896	Kazmierczak, James	21 School St	Er. Deck	(V/L)
8897	Moeller Builders	4109 Walden Ave	Er. Sign	
8898	Iroquois Fence	40 Michael's Walk	Er. Fence	
8899	Forbes Homes Inc	27 Hill Valley Dr	Er. Dwlg.-Sin.	
8900	Sanner, Raymond	35 St Marys St	Dem. Garage	(V/L)
8901	Tri County Contractors	46 Sawyer Ave	Er. Deck	(V/L)
8902	Rich Pools Inc	9 Quail Run Ln	Er. Pool-Abv Grnd	
8903	Decks Unlimited Const	9 Quail Run Ln	Er. Deck	
8904	Good Neighbor Fence	59 School St	Er. Fence	(V/L)
8905	Duro Shed Inc	249 Warner Rd	Er. Shed	
8906	Fitzsimmons, Patrick	17 Park Blvd	Er. Deck	(V/L)
8907	American Fence Co	28 Grafton Ct	Er. Fence	
8908	Donato Developers Inc	3 Village View	Er. Dwlg.-Sin.	
8909	Donato Developers Inc	216 Nathan's Trl	Er. Dwlg.-Sin.	
8910	Donato Developers Inc	231 Nathan's Trl	Er. Dwlg.-Sin.	
8911	Pease, George	34 Christen Ct	Er. Deck	(V/L)
8912	Burzynski, Janice	54S Irwinwood Rd	Er. Shed	(V/L)
8913	Sledz, Joseph	1 Trentwood Trl	Er. Deck	
8914	Duro Shed Inc	234 Nathan's Trl	Er. Shed	
8915	Haniszewski, Edward	911 Ransom Rd	Dem. Garages	
8916	Duro Shed Inc	667 Ransom Rd	Er. Shed	
8917	Duro Shed Inc	3 Lenox Ave	Er. Shed	(V/L)
8918	Duro Shed Inc	14 Sagebrush Ln	Er. Shed	
8919	Jay Tee Home Imprv.	28 Southpoint Dr	Er. Res. Add.	
8920	Snyder, Barbara	671 Aurora St	Er. Deck	
8921	Wentland, William S	6524 Broadway	Dem. Barn	
8922	The Bainbridge Crew	42 Gale Dr	Er. Res. Add.	
8923	Haniszewski, Edward	911 Ransom Rd	Dem. Bldg	
8924	Sachu, Mark & Lynn	7 Buckingham Ct	Er. Dwlg.-Sin.	
8925	DiPaolo Building	34 Quail Run Ln	Er. Dwlg.-Sin.	
8926	Loos, Norman	25 Parkedge Dr	Er. Deck	
8927	Christopher Construction	632 Aurora St	Er. Garage	
8928	Puleo, Jason	475 Schwartz Rd	Er. Deck	
8929	Roscoe, Clay	1 Quincy Ave	Inst. Fire Sprinkler	(V/L)
8930	Classic Fence	19 Summerfield Dr	Er. Deck	
8931	Eckert, Keith	13 Apple Blossom Blvd	Er. Deck	
8932	Precision Fence	53 Via Donato E	Er. Fence	
8933	Beauty Pools Inc	57 Sussex Ln	Er. Pool-In Grnd	
8934	Beauty Pools Inc	57 Sussex Ln	Er. Fence	
8935	Arrow Signs	5462 Broadway	Er. Sign-Temp	(V/L)
8936	Marrano/Marc Equity	34 Summerfield Dr	Er. Dwlg.-Sin.	
8937	Marrano/Marc Equity	46 Cedar Brook Dr	Er. Dwlg.-Sin.	
8938	J G Home Imprv.	759 Aurora St	Er. Res. Add.	
8939	Duro Shed Inc	19 Cedar Brook Dr	Er. Shed	

8940	Classic Fence	19 Summerfield Dr	Er. Fence
8941	Southtowns Decking	170 Nathan's Trl	Er. Deck
8942	Duro Shed Inc	12 Cambridge Ct	Er. Shed
8943	Rich Pools	773 Aurora St	Er. Pool-Abv Grnd

BE IT FURTHER

RESOLVED, that the Building Permit Applications herein coded (SW) for sidewalk waiver be and are hereby reaffirmed with a waiver of the Town Ordinance requirement for sidewalks, and

BE IT FURTHER

RESOLVED, that the Building Permit Applications herein coded (CSW) for conditional sidewalk waiver be and are hereby reaffirmed with a waiver of the Town Ordinance required for sidewalks, however, the waiver is granted upon the expressed condition that the Town of Lancaster, at any future date, reserves the right to order sidewalk installation at the expense of the property owner.

The question of the adoption of the following resolution was duly put to a vote on roll call which resulted as follows

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

April 8, 2002

File:Rbldg2

SUSPENDED RESOLUTION:

Supervisor Giza requested a suspension of the necessary rules for immediate consideration of the following resolution:

Council Member Stempniak moved to suspend the necessary rules for immediate consideration of the following resolution, seconded by Council Member Ruffino, on roll call, which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER RUFFINO, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER ZARBO, TO WIT:

WHEREAS, the Highway Superintendent of the Town of Lancaster has requested the purchase of Two New F450, 3-ton Dump Trucks for the use of the Highway Department, and

WHEREAS, these trucks are available from a state bid which eliminates the need for competitive bidding under the General Municipal Law, and

WHEREAS, the Town Board deems it in the public interest to approve the purchase of said trucks;

NOW THEREFORE, BE IT

RESOLVED, as follows:

1.) The Town Board of the Town of Lancaster hereby approves the purchase of two (2) new F450, 3-ton Dump Trucks as proposed by the Superintendent of Highways of the Town of Lancaster in the sum not to exceed \$63,300 which sum shall be paid with funds available in the 2002 Highway Department budget.

2.) This equipment shall be purchased from state bid without the need for competitive bidding.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	VOTED YES
SUPERVISOR GIZA	VOTED YES

April 8, 2002

File: rhighwayukbu502

COMMUNICATIONS & REPORTS:

319. Town of Cheektowaga to Town Clerk -

Notification of solicitation for lead agency status for proposed 90 unit hotel at 6700 Transit Road. DISPOSITION = Received and Filed

320. Dennis J. & Lucille M. Marsh to Town Board -

Comments regarding proposed rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

321. George Franke to Town Board -

Comments regarding proposed rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

322. Paul H. Przybysz to Town Board -

Comments regarding proposed rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

323. Patricia A. Przybysz to Town Board -

Comments regarding proposed rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

324. Erwin & Elvira Forster to Town Board -

Comments regarding proposed rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

325. Leslie Morris to Town Board -

Comments regarding proposed rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

326. Lawrence Helminiak to Town Board -

Comments regarding proposed rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

327. Francis Jerebko to Town Board -

Comments regarding proposed rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

328. Jeremiah L. Sawyer to Town Board -

Comments regarding proposed rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

329. Martin N. Galczyński to Town Board -

Comments regarding proposed rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

330. Adele Andrzejewski to Town Board -

Comments regarding proposed rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

331. Ida Sawyer to Town Board -

Comments regarding proposed rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

332. Various Residents to Town Board -

Petition against proposed rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

333. Zoning Inspector/Environmental Intake Officer, Town of Cheektowaga to Town Attorney

Comments regarding the FEIS for NEC Transit Road and William Street.
DISPOSITION = Planning Committee

334. Chief of Police to Planning Board Chairman -

Notice of approval from Police Department for the site plan for Wehrle Commons.
Comments noted. DISPOSITION = Planning Committee

335. David J. Seeger to Town Board -

Comments with attachments regarding proposed rezone of NEC Transit Road and William Street. DISPOSITION = Planning Committee

336. Debora J. Paulson to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

337. Town Clerk to Various News Media -

Notice of rescheduled meeting of the Town Board from Monday, April 1, 2002 to Monday, April 8, 2002 at 8:00 PM. DISPOSITION = Received and Filed

338. Supervisor to Residents of Sewer District No. 2 -

Notice of Community Development Block Grant Funding for replacement of sewer laterals to eligible residents. DISPOSITION = Received and Filed

339. Highway Superintendent to Planning Board Chairman -

Notice of approval from Highway Department for the site plan for Wehrle Commons. DISPOSITION = Planning Committee

340. Town Line Volunteer Firemen's Benevolent Association to Town Board -

Notice of interest regarding proposed communication tower project for Cemetery Road. DISPOSITION = Planning Committee

341. Kids Voting of WNY to Town Officials -

Letter updating the status of the Kids Voting program. DISPOSITION = Received and Filed

342. Jim & Diane Dobmeier to Highway Superintendent -

Letter expressing appreciation for response to picking up debris from recent wind storms. DISPOSITION = Received and Filed

343. Assessor to Town Board -

Request for purchase of surplus police car using NYS Office of Real Property Services 2001 Maintenance Aid. DISPOSITION = Town Board

344. Town Attorney to Municipal Review Committee -

Notification the Municipal Review Committee will reconvene Monday, April 8, 2002 at 6:30 PM to make and adopt findings on the FEIS for NEC Transit Road and William Street. DISPOSITION = Received and Filed

345. Town Clerk to Various New Media -

Notice to media of SEQRA MRC meeting, April 8, 2002 at 6:30 PM to make and adopt findings on the FEIS for NEC Transit Road and William Street.
DISPOSITION = Received and Filed

346. NYS DOT to the Town Clerk -

Notice of designation of restricted highway for NYS Route 33 from Ransom Road to Peters Corners Road for reconstruction. DISPOSITION = Highway Superintendent, Town Engineer

347. Sunflowers Restaurant to Town Board -

Advise of renewal of liquor license. DISPOSITION = Town Attorney, Police Chief

348. NYS DEC to Town Attorney -

Notification of Lead Agency Designation to the Town of Lancaster regarding Tim Horton's Coffee and Baked Goods Restaurant. DISPOSITION = Planning Committee

349. NYS DEC to Town Attorney -

Notification of Lead Agency Designation to the Town of Lancaster regarding Tops Fueling Facility. DISPOSITION = Planning Committee

350. Planning Board Chairman to Planning Board Members, Town Board, Town Engineer, Deputy Town Attorney, Building Inspector -

Draft copy of Planning Board minutes of meeting held March 20, 2002.
DISPOSITION = Received and Filed

351. Planning Board to Town Board -

Recommendation to approve site plan of Tim Horton's Coffee and Baked Goods Restaurant, 3600 Walden Avenue with conditions. DISPOSITION = Received and Filed

352. Planning Board to Town Board -

Recommendation to approve site plan of CARSTAR, 6705 Transit Road with conditions. DISPOSITION = Received and Filed

353. Planning Board to Town Board -

Recommendation to approve site plan of Schmitt's Garage Inc., 5255 Genesee Street. DISPOSITION = Received and Filed

354. Planning Board to Town Board -

Recommendation to approve site plan of SBA Communications Tower, Cemetery Road with conditions. DISPOSITION = Received and Filed

355. Town Clerk to Zoning Board Members, Building Inspector, Deputy Town Attorney -

Transmittal of legal notice of a Public Hearing to be held April 11, 2002 regarding variance petitions. DISPOSITION = Received and Filed

356. Louis Lamanna to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

357. Joan O'Hern to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

358. Lawrence M. Nowak to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

359. Linda Lee Kohlbrenner to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

360. M.M. & P.S. English to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

361. Domenica Cappella to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

362. John B. Lempke to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

363. Town Engineer to Town Board -

Recommends acceptance of Public Improvement Permit No. 549 for street lighting for Windsor Ridge Phase III (c). DISPOSITION = For Resolution

364. Mrs. Laurie Potworu to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

365. Sandra A. Folckemer to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

366. Helen R. Seres to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

367. Harry J. Marmion to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

368. Buffalo Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

369. Cheektowaga Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

370. Robert R. Rohauer to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

371. William Herring to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

372. Diana Fuller to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

373. Wendy L. Myers to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

374. Cheektowaga Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

375. Debbie Harris to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

376. Mary E. Lisku to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

377. Richard C. Bartela Jr. to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

378. Kimberly C. Damien to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

379. Sharie Scully to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

380. Renaldo & Myers, P.C. to Supervisor -

Request a public hearing regarding rezone petition of CARSTAR Collision Center,
6705 Transit Road. DISPOSITION = Resolution 4/8/02

381. Roy Schneggenburger to Supervisor -

Second request for copies of aerial photographs of certain quadrants of the town.
DISPOSITION = Received and Filed

382. Roy Schneggenburger to Town Clerk -

Request Town Clerk to intercede regarding a FOIL request to the Town Engineer.
DISPOSITION = Received and Filed

383. Phyllis Greco to Roy Schneggenburger -

Reply to Foil Request delivered to Town Clerk's Office March 28, 2002.
DISPOSITION = Received and Filed

384. Business First to Town Board -

Article from Business First issue of March 25, 2002 regarding proposed ice rink complex on Genesee Street. DISPOSITION = Received and Filed

385. Erie County Department of Environment & Planning to Town Attorney -

Notification of Lead Agency Designation to the Town of Lancaster regarding Fairway Hills Subdivision. Comments/concerns noted. DISPOSITION = Planning Committee

386. Town Attorney to Town Board, Planning Board Members, Town Clerk, Building Inspector, Town Engineer -

Notice of SEQR Review meeting April 8, 2002, 6:30 PM regarding Fairway Hills Subdivision and Erie County Potable Water Pumping Station. DISPOSITION = Received and Filed

387. Highway Superintendent to Town Board -

Request to purchase 2003 Volvo truck from county bid. DISPOSITION = Town Board & Town Attorney

388. Chief of Police to Town Board -

Request Town Board resolution authorizing the sale of two out-dated defibrillators to Erie Community College North Campus. DISPOSITION = Resolution 4/8/02

389. Hamburg Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

390. Barbara A. DeAngelo to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

391. West Falls Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

392. Carol A. Casiro to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

393. Daisy E. Blenman to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

394. Annette Moore to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

395. Sharon L. Howse to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

396. Carl & Brontie Mostiller to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

397. Charles L. Munzert to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

398. Niagara Falls Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

399. Sharon R. Walters to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

400. S. Depeczynski to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

401. Thomas Orlowski to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

402. Cheektowaga Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

403. Mary H. Gambon to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

404. John Gambon to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

405. Nicole Stutz to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

406. Patricia A. Manns to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

407. David E. Manns to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

408. Christine P. Okonczak to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

409. Edward P. Okonczak to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

410. General Crew Chief to Planning Board Chairman, Planning Board Members, Council

Members Montour, Ruffino, & Stempniak -

Transmittal of approval from the Town Forestry Department for the site plan of Tim Horton's Coffee & Baked Goods Restaurant. DISPOSITION = Planning Committee

411. ABC Consulting Services to Town Clerk -

Advicement of renewal of liquor license for J.R.'s Corner, LLC. DISPOSITION = Town Attorney, Police Chief

412. Erie County Department of Environment and Planning to Town Board -

Notice of Computer Recycling Day April 20, 2002 at Buffalo State College.
DISPOSITION = Received and Filed

413. Erie County Clerk to Town Clerk -

Transmittal of letter to Erie County Legislature requesting resolution opposing Governor's proposal to increase Record Management fees. DISPOSITION = Received and Filed

414. Orchard Park Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

415. Diane M. Sanfilippo to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

416. Cheektowaga Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

417. Cheektowaga Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

418. Cheektowaga Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

419. Cheektowaga Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

420. Sherry Zukowski to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

421. Electra M. Klager to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

422. Town Engineer & Building Inspector to Town Board -

Recommendation to approve dumping permit for Anthony Batog with restrictions.
DISPOSITION = Resolution 4/8/02

423. Town Engineer & Building Inspector to Town Board -

Recommendation to approve dumping permits for David Smith with restrictions.
DISPOSITION = Resolution 4/8/02

424. Town Clerk to Supervisor -

Transmittal of Clerk's Monthly Report for March 2002. DISPOSITION = Received
and Filed

425. Highway Superintendent to Town Board -

Request appointment of Darryl Ludwig to Heavy Equipment Operator.
DISPOSITION = Resolution 4/8/02

426. Highway Superintendent to Town Board -

Request appointment of William Wiepert to Light Equipment Operator.
DISPOSITION = Resolution 4/8/02

427. Highway Superintendent to Town Board -

Request appointment of Gary Gallagher to Light Equipment Operator.
DISPOSITION = Resolution 4/8/02

428. Supervisor to Town Board -

Request authorization to seek two additional Light Motor Equipment Operator
(LEO) slots from Erie County Personnel. DISPOSITION = Resolution 4/8/02

429. Annette Gawronski to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

430. James P. Collins to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

431. Lynn Collins to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

432. Cheektowaga Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

433. Jerome Morrow to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

434. John & Gayla Schaefer to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

435. Safety Director to Town Board -

Minutes of Safety Committee meeting of March 27, 2002. DISPOSITION =
Received and Filed

436. Sharon M. Bobak to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

437. Thomas E. Bobak to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

438. Cheektowaga Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

439. Cheektowaga Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

440. Mr. & Mrs. John Bryk to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

441. Ronald J. Szypajlo to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

442. Alden Resident to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

443. Ronald D. Rabent to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

444. Linda Rabent to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

445. Richard Wedmore to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

446. Mariam Przybyszewski to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

447. Assemblyman Tokasz to NYS DOT -

Letter indicating support for the proposed Lancaster Heritage Trail. DISPOSITION
= Received and Filed

448. Emergency Management Coordinator to Supervisor -

Request for acquiring surplus police vehicle for use by Office of Emergency
Management. DISPOSITION = Town Board

449. Mayor, Village of Lancaster to Erie County Executive -

Request to reallocate federal Community Development Block Grant funds for
completion of Walter Winter Drive. DISPOSITION = Received and Filed

450. National Fuel to Town Engineer -

List of representatives for National Fuel. DISPOSITION = Received and Filed

451. NYS DEC to Lafarge North America, Inc. -

Notice of renewal of the mining operation permit for the Genesee North Gravel Pit in
the Town of Lancaster. DISPOSITION = Received and Filed

452. NYS DEC to Lafarge North America, Inc. -

Notice of renewal of the mining operation permit for the Genesec/Fayhe Gravel Pit
in the Town of Lancaster. DISPOSITION = Received and Filed

453. NYS Office of Real Property Services to Supervisor -

Notice of determination of the Residential Assessment Ratio for the Town of
Lancaster. DISPOSITION = Received and Filed

454. Chief of Police to Officer James Robinson, Bowmansville Ass't. Fire Chief Michael
Schuler, & LVAC Paramedic Scott Leonard -

Letter extending congratulations for their response to a cardiac arrest at Dr.
Penepent's office on March 21, 2002. DISPOSITION = Received and Filed

455. Supervisor to NYS DOT -

Letter of support for application of the Village of Lancaster for funding to complete
Walter Winter Drive. DISPOSITION = Received and Filed

456. Municipal Insurance Consultants Inc to Director of Administration & Finance -

Comments and concerns regarding the renewal of the Town's Property and Casualty
Insurance. DISPOSITION = Received and Filed

457. Youth Bureau Social Worker Karen Schanne to Town Hall Employees -

Letter of appreciation for food and monetary donations to Youth Bureau's Easter
Program for families in need. DISPOSITION = Received and Filed

458. NYS Unified Court System to All Town & Village Justices, Court Clerks, Town
Supervisors, and Village Mayors -

Notice that the Chief Administrative Judge is accepting applications for Justice
Court Assistance Program grants. DISPOSITION = Received and Filed

459. Walter F. Powell to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

460. Town Clerk to Town Board -

Copy of second settlement report to Erie County for 2002 County/Town tax warrant.
DISPOSITION = Received and Filed

461. Robert C. & Audrey A. Tuyn to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

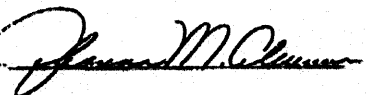
462. Ruth M. Powell to Town Board -

Recommendation to deny rezone of NEC Transit Road and William Street.
DISPOSITION = Planning Committee

ADJOURNMENT:

ON MOTION OF COUNCIL MEMBER STEMPNIAK AND SECONDED BY
COUNCIL MEMBER RUFFINO AND CARRIED, the meeting was adjourned at 10:35 P.M.

Signed



Johanna M. Coleman, Town Clerk

Town Board Minutes

Meeting No. 12

Special Meeting

April 8, 2002

Town Board Minutes

April 8, 2002

Meeting No. 12

A joint meeting of the Town Board and the Planning Board of the Town of Lancaster, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York on the 8th day of April 2002, at 6:30 PM and there were

PRESENT: **ROBERT GIZA, SUPERVISOR**
 MARK MONTOUR, COUNCIL MEMBER
 RONALD RUFFINO, COUNCIL MEMBER
 DONNA STEMPIAK, COUNCIL MEMBER
 REBECCA ANDERSON, PLANNING BOARD MEMBER
 JOHN GOBER, PLANNING BOARD MEMBER
 STANLEY KEYSA, PLANNING BOARD CHAIRMAN
 LAWRENCE KORZENTEWski, PLANNING BOARD MEMBER
 MICHAEL MYszKA, PLANNING BOARD MEMBER
 STEVEN soCHA, PLANNING BOARD MEMBER

ABSENT: **RICHARD ZARBO, COUNCIL MEMBER***
 MELVIN szYMANSKI, PLANNING BOARD MEMBER

ALSO PRESENT: **JOHANNA COLEMAN, TOWN CLERK**
 THOMAS PRZYBYLA, DEPUTY TOWN ATTORNEY
 LEONARD CAMPISANO, ASST. BUILDING INSPECTOR
 ROBERT LABENSKI, TOWN ENGINEER

PURPOSE OF MEETING:

This joint meeting of the Town Board and Planning Board of the Town of Lancaster is held for the purpose of acting as a Municipal Review Committee for a State Environmental Quality Review of one (1) action and to make and adopt Findings Statement in the matter of the NEC Transit/William LLC rezone petition.

* Council Member Zarbo arrived at approximately 6:50 P.M., during the review of the Findings Statement in the matter of the NEC Transit/William LLC rezone petition.

**IN THE MATTER OF THE SEQR REVIEW OF THE
POTABLE WATER PUMPING STATION**

The Municipal Review Committee proceeded with the short Environmental Assessment Form on the potable water pumping station matter with an item for item review and discussion of the project impact and magnitude as outlined on the Short Environmental Assessment Form, entitled "Part II Environmental Assessment", which was provided to each member.

**THE FOLLOWING RESOLUTION WAS OFFERED
BY PLANNING BOARD MEMBER GOBER
WHO MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER STEMPNIAK, TO WIT:**

RESOLVED, that the following Negative Declaration be adopted.

**NOTICE OF DETERMINATION:
POTABLE WATER PUMPING STATION
NEGATIVE DECLARATION**

PLEASE TAKE NOTICE, that the Town of Lancaster, acting as the designated lead agency under the State Environmental Quality Review Act, has reviewed the following described proposed action, which is an unlisted action, through its designated Municipal Review Committee, and that committee having found no significant environmental impact relative to the criteria found in 6NYCRR, Part 617.7, the lead agency now issues a Negative Declaration for the purposes of Article 8 of the Environmental Conservation Law in accordance with 617.12.

NAME AND ADDRESS OF LEAD AGENCY

Town of Lancaster
21 Central Avenue
Lancaster, New York 14086
Richard J. Sherwood, Town Attorney
716-684-3342

NATURE, EXTENT AND LOCATION OF ACTION:

The proposed development is of a parcel involving approximately 0.5 acres.

The location of the premises being reviewed is situate on Miller Street, 700' south of William Street, in the Town of Lancaster, County of Erie.

REASONS SUPPORTING DETERMINATION

The lead agency, the Town of Lancaster, through the review of the Municipal Review Committee, which is made up of at least three (3) members of the Town Board of the Town of Lancaster together with at least three (3) members of the Planning Board of the Town of Lancaster, has found, in their item for item completion of the Short Environmental Assessment Form on this proposed action as follows:

- A. The action does not exceed any type 1 threshold in 6 NYCRR, Part 617.4.
- B. The action will receive coordinated review as provided for unlisted actions in 6 NYCRR, Part 617.6.
- C. The proposed action will not result in any adverse effects associated with the following:
 - C.1 Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems.
No significant adverse effects noted
 - C.2 Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character.
No significant adverse effects noted
 - C.3 Vegetation or fauna, fish, shellfish or wildlife species significant habitats, or threatened or endangered species.
No significant adverse effects noted
 - C.4 A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources.
No significant adverse effects noted
 - C.5 Growth, subsequent development, or related activities likely to be induced by the proposed action.
No significant adverse effects noted
 - C.6 Long term, short term, cumulative, or other effects not identified in C1-C5.
No significant adverse effects noted
 - C.7 Other impacts (including changes in use of either quantity or type of energy).
No significant adverse effects noted
- D. The project will have no impact on the environmental characteristics that caused the establishment of a CEA.

- E. There is not, nor is there likely to be, controversy related to potential adverse environmental impacts.

s/s _____
Robert H. Giza, Supervisor
Town of Lancaster

SEAL

April 8, 2002

and,

BE IT FURTHER

RESOLVED, that the Supervisor of the Town of Lancaster be and is hereby authorized to execute a "Negative Declaration" Notice of Determination of Non-Significance in this matter, and

BE IT FURTHER

RESOLVED, that the Town Attorney's Office prepare and file a "Negative Declaration" Notice of Determination of Non-Significance in this matter with the petitioner and with all required New York State and Erie County agencies, filing a copy of the letter of transmittal and "Negative Declaration" with the Town Clerk.

The question of the adoption of the foregoing Notice of Determination was duly put to a vote which resulted as follows:

SUPERVISOR GIZA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
COUNCIL MEMBER ZARBO	WAS ABSENT
PLANNING BOARD MEMBER ANDERSON	VOTED YES
PLANNING BOARD MEMBER GOBER	VOTED YES
PLANNING BOARD CHAIRMAN KEYSA	VOTED YES
PLANNING BOARD MEMBER KORZENIEWSKI	VOTED YES
PLANNING BOARD MEMBER MYSZKA	VOTED YES
PLANNING BOARD MEMBER SOCHA	VOTED YES
PLANNING BOARD MEMBER SZYMANSKI	WAS ABSENT

The Notice of Determination was thereupon unanimously adopted.

April 8, 2002

THE FOLLOWING RESOLUTION WAS OFFERED BY
PLANNING BOARD MEMBER MYSZKA, WHO
MOVED ITS ADOPTION, SECONDED BY PLANNING
BOARD MEMBER KORZENIEWSKI, TO WTT:

WHEREAS, NEC Transit William LLC (the "Applicant") with offices at 6495 Transit Road, Bowmansville, New York has petitioned the Town Board of the Town of Lancaster (the "Town") with an application dated March 15, 1999 to amend the Zoning District Map and Zoning Ordinance of the Town to rezone approximately 36 acres of land located at the northeast corner of Transit and William Street in the Town of Lancaster, County of Erie and State of New York which hereinafter shall be referred to as the "Property", and

WHEREAS, the westerly (approximately) 15 acres of the Property is currently zoned as CMS-Commercial and Motor Service District and the easterly (approximately) 21.37 acres of the Property is currently zoned as R-1 Residential District One, and

WHEREAS, such application is to amend the Town's Zoning District Map and Zoning Ordinance to rezone the Property to GB-General Business District which hereinafter shall be referred to as the "Action", and

WHEREAS, the Town's Municipal Review Committee, has reviewed the Action pursuant to the requirements of the State Environmental Quality Review Act and the regulations issued by the New York State Department of Environmental Conservation applicable thereto at 6 NYCRR Part 617 *et seq.* (collectively referred to as "SEQRA"), and

WHEREAS, the Town's Municipal Review Committee upon consideration of the potential environmental impacts of the Action, in accordance with SEQRA, recommended issuance of a positive declaration at its meeting held on December 3, 2001, and

WHEREAS, the Town's Municipal Review Committee, has reviewed a Supplemental Draft Environmental Impact Statement ("SDEIS") dated November, 2001, which supplements the draft environmental impact statement ("DEIS") dated November 8, 1999, and such SDEIS was submitted to the Town's Municipal Review Committee and the Town Board, acting as lead agency, and

WHEREAS, the Town's Municipal Review Committee undertook a full and thorough review of the SDEIS and has received comments from the public, together with a public hearing which was conducted on December 18, 2001 in the Lancaster Senior Citizens Center located at 100 Oxford Avenue, Lancaster, New York which afforded the public with an opportunity to be heard with respect to the Action, and

WHEREAS, after a full and thorough review of the SDEIS, comments submitted at the above-referenced public hearing on December 18, 2001 and other written comments submitted to the Town Clerk, the Town Board determined that the Action required a Final Environmental Impact Statement ("FEIS"); and

WHEREAS, the FEIS was submitted to the Town and after due consideration was accepted for public review at the meeting of the Town's Municipal Review Committee and Town Board held on March 4, 2002; and

WHEREAS, upon full consideration of the FEIS, the Town's Municipal Review Committee is prepared to recommend adoption of Findings Statement with respect to the Action and pursuant to SEQRA; and

WHEREAS, the process undertaken by the Town to review the Action has provided a means for the Town, public agencies, the project sponsors, and the public to systematically consider significant adverse environmental impacts, alternatives and mitigation and this process has allowed the weighing of social, economic and environmental factors early in the planning and decision-making process; and

WHEREAS, as part of the Zoning Ordinance of the Lancaster Town Code, the Town has established a site plan review process at Section 50-43 to control development within allowable zoning districts, and such site plan review process will afford a full and thorough opportunity to control the actual development of the Property, and

WHEREAS, the Town's Draft Comprehensive Plan dated June 1995, prepared for the Town by Saratoga Associates recognized the need to establish a "Transit Road Regional Commercial Corridor" to highlight and promote the existing commercial corridor of land use in the Town along Transit Road, which would serve regional needs, and which plan recommended an increase in the depth of existing commercial and business zoning districts beyond 300 feet to accommodate such regional general business needs, and

WHEREAS, the State of New York has recently undertaken a major project to widen Transit Road adjacent west of the Property from two lanes to five lanes (Department of Transportation Project number 511162) to accommodate and promote vehicular traffic and commercial and business development along Transit Road, and

WHEREAS, such widening of Transit Road between Broadway and French Road as a regional corridor for commercial and business development has been supported by the Town of Lancaster, Village of Lancaster, Town of Cheektowaga, Town of West Seneca and Village of Depew, and

WHEREAS, the Town of Lancaster, Village of Lancaster and Village of Depew have undertaken development of A Comprehensive Plan dated September 1999, with professional planners: Peter J. Smith & Company, Inc., and The Saratoga Associates, which among other things, recommends that the Town of Lancaster update its zoning ordinance and zoning map to include designation of Transit Road as a regional commercial route with adequate depth along such corridor for appropriate commercial and business development able to serve regional needs, and

WHEREAS, the other parcels of land across from the Property, to wit: the northwest, southeast, and southwest corners of the intersection of Transit Road and William Street are all zoned for commercial and business use, and

WHEREAS, the Action or proposed change to the Town's Zoning Ordinance and the Town's Zoning District Map shall be to rezone approximately 33.63 acres to GB - General Business District and keep the easterly sixty feet of the Property zoned R-1 - Residential District One, as a buffer between the GB - General Business District and the MFR - Multifamily Residential District adjacent east of the Property, and

NOW THEREFORE, be it resolved as follows:

That amendment of the Zoning Ordinance and Zoning District Map of the Town of Lancaster with respect to the approximate 33.63 acres of land, more particularly described on Schedule A, and a sketch of which is shown on Schedule B, both attached and made a part hereof, from CMS-Commercial and Motor Services and Residential District One to a GB-General Business District is approvable after consideration of the FEIS and the Action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable.

The Town Municipal Review Committee has reviewed and hereby adopts the attached Findings Statement and all of its supporting documentation with respect to the rezoning of the 33.63 acres of land more particularly described in Schedule A, attached hereto and made a part hereof, and incorporates its analysis and findings in this resolution and recommends to the Town Board the adoption of such Findings Statement, and requests the Town Clerk to file this resolution with all appropriate and involved agencies in accordance with the requirements of SEQRA.

This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

SUPERVISOR GIZA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
COUNCIL MEMBER ZARBO	**
PLANNING BOARD MEMBER ANDERSON	VOTED YES
PLANNING BOARD MEMBER GOBER	VOTED YES
PLANNING BOARD CHAIRMAN KEYSA	VOTED YES
PLANNING BOARD MEMBER KORZENIEWSKI	VOTED YES
PLANNING BOARD MEMBER MYZKA	VOTED YES
PLANNING BOARD MEMBER SOCHA	VOTED YES
PLANNING BOARD MEMBER SZYMANSKI	WAS ABSENT

April 8, 2002

** Council Member Zarbo was given the opportunity to vote, however, indicated that he was not participating in this portion of this meeting.

**STATE ENVIRONMENTAL QUALITY REVIEW
FINDINGS STATEMENT**

Pursuant to Article 8 (State Environmental Review Act- SEQR) of the Environmental Conservation Law and 6. NYCRR Part 617, the Town Board of the Town of Lancaster, as Lead Agency, makes the following findings:

Name of Action: Gateway Center
Rezoning and retail development

Description of Action: Rezoning of 36.19± acres of land to General Business and subsequent development of a retail center. Rezoning includes 15± acres from Commercial Motor Services to General Business; and 21± acres from Residential District One to GB.

Location: Northeast Corner of Transit Road and William Street
Town of Lancaster, Erie County, New York

Agency Jurisdiction: *Approval for rezoning* of the northeast corner of Transit Road and William Street is required by the Town of Lancaster, pursuant to the permitted use provisions of the Town of Lancaster Zoning Code. Retail development at this site is contingent upon receiving this approval. *Site plan approval* will be required by the Town of Lancaster pursuant to Article VIII, Section 50-43 of the Zoning Code of the Town of Lancaster.

Date Final EIS Filed: March 1, 2002

Facts and Conclusions in the EIS relied upon to support the decision:

PART I: INTRODUCTION

A Petition was filed by NEC Transit-William LLC, on or about March 15, 1999, requesting the Town Board of the Town of Lancaster to amend the Zoning Ordinance of the Town of

Lancaster to rezone approximately 36 acres of property located at the northeast corner of Transit Road and William Street in the Town of Lancaster, Erie County and State of New York, and which land is shown on a sketch and described in Schedule A of the Town of Lancaster Town Board Resolution dated December 20, 1999.

The Petition requested rezoning of the westerly (approximately) 15 acres of the Property currently zoned as Commercial and Motor Services (CMS); and the easterly (approximately) 21.37 acres of the Property zoned as Residential District One (R1) to General Business (GB) to permit the construction of a regional shopping center to be known as the Gateway Center in Lancaster, New York.

The Town's Municipal Review Committee, after its initial review of the full environmental assessment form (EAF), as submitted in connection with the application, issued a Negative Declaration pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) and the regulations issued by the New York State Department of Environmental Conservation (NYSDEC) applicable thereto at 6NYCRR Part 617.

Thereafter, the Town's Municipal Review Committee upon further consideration of the potential environmental impacts of the project, in accordance with SEQRA determined to re-open the SEQRA proceedings with respect to the project and determined to substitute therefor a positive declaration in accordance with the provisions of the SEQRA, at its meeting held on July 19, 1999.

The Town Board of the Town of Lancaster was designated Lead Agency under SEQRA and collectively with the Town's Municipal Review Committee, NEC Transit-William LLC, and other involved and interested parties, undertook scoping sessions for the project. Thereafter, a Draft Environmental Impact Statement (DEIS), dated November 8, 1999, was prepared for the Town Board for the rezoning application by the NEC Transit-William LLC.

The Town's Municipal Review Committee accepted the DEIS as complete and in accordance with SEQRA on November 15, 1999. A public hearing was scheduled for December 8, 1999 in the Lancaster Senior Senior Citizens Center located at 100 Oxford Avenue, Lancaster, New York, which afforded the public an opportunity to be heard with respect to the project.

Early discussions were held regarding the buffering of the property to the west of the project site during several Town meetings. The suggestion to exclude the buffer strip between the properties was adopted and resulted in the reduction of the area proposed for rezoning to 33.63 acres. The Town held that excluding this area from the rezoning would provide an extra measure of protection to the Northwoods residents from encroachments potentially

incompatible with the residential setting of the neighborhood.

The DEIS and all written comments received during the public comment period including the public hearing were reviewed by the Town Board and Town's Municipal Review Committee and was determined that the project would not have a significant impact on the environment.

On December 20, 1999, the Town Board adopted a resolution issuing a Negative Declaration and amended its Zoning Ordinance to rezone 33.63 acres of the approximately 36 acres to GB. The resolution was challenged in the Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department, in March 2001, by opponents to the project seeking to annul this resolution. The motion was granted by the Supreme Court, and the Town Board was required by the order (CA 00-2115) of the Supreme Court to take the SEQR process to a Final Environmental Impact Statement (FEIS).

The Town Board complied with the Court decision and issued a SEQR Positive Declaration with a Notice of Intent to prepare a Supplemental Draft Environmental Impact Statement (SDEIS). The SDEIS was prepared by the Applicant, for the Town, on the basis of change in circumstances afforded by the Supreme Court decision. The SDEIS was submitted to the Town Board and Town's Municipal Review Committee on November 7, 2001. The Town's Environmental Consultant reviewed the SDEIS for technical content. Following the Town Board's and Town's Municipal Review Committee's review of the SDEIS, a Notice of Completion was issued on December 03, 2001.

A new public comment period was opened commencing on December 4, 2001 and closing on January 4, 2002, which included a public hearing. The public hearing was held on December 18, 2001 at the Lancaster Senior Citizen's Center at 100 Oxford Road, Lancaster, New York.

Incorporating the written responses to all substantive written and oral comments received during the public comment period, an FEIS was subsequently prepared by the Applicant for consideration and review by the Consultant and the Town Board. Following this careful review and analysis, the FEIS was adopted by the Town Board on March 4, 2002 and circulated to the involved agencies and the public. An extended period of approximately 34 days for public review period was established from this date.

The Town Board has carefully and thoroughly reviewed the information contained in the FEIS, Appendices A and B, the SDEIS and its Appendices A to F, and the original DEIS; and found it to be an adequate examination of all important potential impacts which would

result from affirmative action on the subject rezoning application.

Since receipt of the FEIS, the Town Board has received additional comments. The Town Board has carefully considered these additional comments and has determined that the issues raised by such comments were adequately addressed in the EIS.

The Town Board recognizes that qualified experts on any topic may differ in their conclusions and in particular may differ in the judgements employed during analysis. The Town Board acknowledges that the review of this rezoning proposal and the debate over various issues that have been submitted by government agencies, other experts and general public that reflect hundreds of hours of examination of the project. On balance, and after careful consideration of all relevant documentation and comments, the Town Board believes it has more than adequate information to evaluate all of the benefits and potential impacts of this project as a basis for considering the requested rezoning of the Site.

Recognizing that SEQR was developed to foster a careful review by all interested parties of any potentially significant environmental impacts at a time when the discussion of such consequence has the most meaning. This review is conducted prior to any agency decision regarding permits or approvals and when the project is still in its formative stage. This early environmental analysis is appropriate in this case where a rezoning of land is also required prior to project development. The filing of conceptual plans for a major project is common and affords important opportunities to obtain information and help shape the ultimate project that will be presented for more detailed review by the Town Planning Board at its site plan review stage. The environmental review of this rezoning action has afforded the Town Board and other involved agencies a clear understanding of the potential environmental impacts that might arise from the actual construction and operation of the Gateway Center. To the extent possible, the Applicant presented detailed information regarding certain impacts, most notably traffic, wetlands, and noise, which can be reasonably anticipated and analyzed at an early stage of the process. Analysis of other impacts, such as the stormwater run-off, drainage, visual and aesthetic impacts, could only be performed in a conceptual manner and must await the preparation of a detailed site plan. The review of the site plan will advance to its final stage with the Town following completion of the SEQR process. During the final review of the site plan the Town will assess the consistency of the final plans with the details that were considered during the SEQR process and move to a decision on the approval of the site plan after this consideration. The environmental review process has provided the Town Board with a clear understanding of the nature and potential impacts associated with the development of

Gateway Center following the re-zoning of the property. The US Army Corps of Engineers (USACOE) has exclusive jurisdiction over the investigation and appropriate compensation for the loss of wetlands, which are within the boundaries of the Site. The Applicant has been working cooperatively with the USACOE for over three years to evaluate the functions and values, and adequate mitigation of these wetlands, after having considered alternatives to avoid or minimize impacts to them. The Applicant will continue to work closely with the USACOE to ensure that all appropriate steps are taken to ensure "no net loss" of wetlands in the area occur as a result of this project in accordance with their directive. New York State Department of Transportation (NYSDOT) and Erie County Department of Public Works (ECDPW) Highway Division have jurisdiction over roadway changes to the Transit Road and William Street respectively. The decision to re-zone the property will be followed by the issuance of Highway Work Permits from NYSDOT and ECDPW to improve traffic conditions near the Site location. The Applicant has been in close communication with NYSDOT and ECDPW since 1999 to finalize a traffic mitigation plan.

PART II: THE SITE

The members of the Town Board are familiar with the Site, the area surrounding the Site and the retail opportunities in the Town of Lancaster and Erie County.

The proposed action seeks to rezone 13 contiguous parcels, constituting approximately 33.63 acres of land on which the Gateway Center will be constructed. The land is largely undeveloped at this time. The rezone excludes a 2.56 acre strip of upland forested land along the eastern boundary of the Site, which will be preserved as buffer area under a conservation easement.

The Applicant owns and/or controls the approximately 36.19 acres of property to be rezoned. Property to the north of the Project Site, to be preserved as mitigation area includes paper streets owned by the Town. The Town has agreed to allow the inclusion of these non-standard right-of-ways in the preservation plan for long-term green space development within the Town precluding the potential for any future development on them. Town owned property is not part of the area of the Applicant's mitigation plan as currently proposed.

The Project Site is bounded by Transit Road (State Route 78) to the west, William Street (Erie County route 338) to the south, Northwoods Residential Subdivision to the east and undeveloped wooded area to the north.

The eastern boundary of the Property is buffered from the residential subdivision by a 105-foot wide strip of natural property, including the 60-ft wide (2.56 acre) upland forested area

excluded from the re-zoning to preclude commercial encroachments.

The Site contains 7.54 acres of federally regulated wetlands.

PART III: PROPOSED DEVELOPMENT

Applicant plans to construct the Gateway Center Retail Plaza composed of National anchor stores and smaller consumer oriented stores and services, with associated parking. The Applicant is required to obtain Town Board site plan approval prior to constructing the Gateway Center. Site plan approval will allow the Town of further control the development of the Site to assure that the scope of development is consistent with that analyzed in the SEQR process. The Town site plan approval considers, among other issues: ground coverage, setbacks, green spaces, parking spaces, ingress and egress to state highway, sewer, water, drainage, lighting, signage, screening and landscaping.

The Town Board of Lancaster, as lead agency, reviewed a conceptual site plan for the Gateway Center set forth in the SDEIS and FEIS. The detailed site plan to be prepared will take into account the comments of the involved agencies, in particular, the NYSDOT and ECDPW regarding roadway improvements, Erie County Department of Environment and Planning (ECDEP) regarding construction of sanitary sewers, NYSDEC regarding a Stormwater Pollution Prevention Plan, and Erie County Water Authority (ECWA) for water supply connections.

As demonstrated by the EIS, the proposed ±36.19 acre development would convert approximately 33.63 acres (building, parking, driveways, and landscape areas), while providing adequate parking and setbacks, stormwater retention facilities to mitigate any increase in stormwater runoff, leaving 2.56 acres of untouched green buffer at the eastern boundary.

Subsequent to the rezoning of the Site to GB, detailed site plans must be finalized and submitted to the Town for review and approval, including a landscaping plan and storm sewer plan.

Other agencies which must approve various aspects of the proposed development include the Erie County Sewer District No. 4, ECDEP, NYSDOT, ECDPW Highway Division, U.S. Army Corps of Engineers, and NYSDEC.

PART IV: TRAFFIC AND ROADWAY IMPROVEMENTS

The principal roadways to be affected by the construction and operation of the Gateway Center are New York State Route 78 (Transit Road), which falls under the jurisdiction of the

NYS DOT; and Erie County Route 338 (William Street) which falls under the jurisdiction of the ECDPW Highway Division.

Applicant has agreed to make the following roadway improvements which will maintain or improve existing Levels of Service at the intersection of Transit Road, William Street and Losson Road:

Add exclusive right-turn lanes on Transit Road on both northbound and southbound approaches to Losson Road/ William Street intersection.

Provide one westbound through-lane on William Street from a point just east of the existing Flix Theater driveway to Transit Road.

Restripe the existing pavement to provide a dual left turn lane on the westbound William Street approach to Transit Road.

Modify the traffic signal at the intersection to include control for the new lane configuration.

Applicant will maintain the number and placement of driveways at the Gateway Center as described:

One primary and one ancillary driveway to Transit Road.

One driveway to William Street.

The primary driveway onto Transit Road will be aligned opposite the signalized Wegman's driveway. The driveway will consist of one inbound lane, two outbound lanes and a raised median.

A right turn lane will be added to the northbound Transit Road approach to the primary driveway.

The existing traffic signal will be modified to provide signal faces for outbound traffic from the primary driveway onto Transit Road.

The ancillary driveway will run north of Martino's restaurant from the Gateway Center onto Transit Road.

The ancillary driveway will have one inbound lane and two outbound lanes. A stop sign will be posted for outbound traffic from this driveway with a right hand turn only.

The single driveway onto William Street will consist of one inbound lane and two outbound lanes.

Add designated left turn lane for eastbound William Street traffic turning into the driveway.

These extensive roadway improvements and access management controls will substantially mitigate the effects of increased traffic resulting from the construction and operation of Gateway Center.

Applicant will bear the cost for design and construction of roadway improvements. Applicant

will be required to Bond the improvements to satisfy Erie County and the NYSDOT requirements.

Once the off-site improvements have been constructed by the Applicant and accepted by the appropriate governmental agencies, maintenance will be performed by those agencies with jurisdiction.

Increase in traffic due to operations at Gateway Center is inevitable. The mitigation proposed by the Applicant alleviates to the best extent possible, the negative impacts of this increase. A minor reduction in the level of service is unavoidable at the Transit Road/Wegmans driveway/Gateway Center primary driveway; and eastbound left turn on Transit Road. William Street intersection.

The Town of Lancaster has formalized the Comprehensive Plan dated 1999, by Peter J. Smith & Company and The Saratoga Associates, which recognizes Transit Road as a regional corridor for commerce. The roadway improvements to Transit Road, resulting from this Project, are in keeping with the commercial objective envisioned for the region in the plan.

The Town has also examined the *Transit Road/French Road Corridor Study* undertaken by the Town of Cheektowaga, wherein, Transit Road has been designated to play an important role in the future transportation and land use planning of the region. The Town of Lancaster agrees that zoning compliance of properties along this New York State Highway requires design creativity and flexibility, bearing in mind the environmental sensitivity along the corridor.

PART V: WETLAND IMPACTS AND MITIGATION

Based on a jurisdictional determination by the USACOE, 7.54 acres of Federal wetlands are located on the Site. Of this total, 7.40 acres will be impacted by the Project. The remaining 0.14 acres will be preserved in the 60-foot wide natural buffer strip that will remain undisturbed along the eastern boundary of the Site.

Prior to any disturbance of the site wetlands, all necessary permits will be obtained from the USACOE and the NYSDEC.

To compensate for wetlands to be impacted by the Project, the Applicant has proposed a wetland mitigation plan that has been accepted by the USACOE. The plan includes approximately 7.14 acres of wetland creation and 10.15 acres of wetland and upland buffer preservation at the two sites in the Cayuga Creek watershed, one immediately north of the Site, the other at the northwest corner of Broadway and Steinfeldt Road. In addition, the Applicant has an agreement with Ducks Unlimited, Inc. to restore and enhance 12 acres of emergent marsh

in the Tonawanda State Wildlife Management Area in Genesee County. The Town believes that the plan, when implemented, will adequately compensate for lost wetlands and associated habitat at the Site.

As outlined in the wetland mitigation plan, the northern mitigation area will be preserved through a conservation easement or other long-term restriction mechanism.

The northern mitigation area located to the north of the Site includes paper streets but the Town will make them available to the Applicant to include for preservation of green space. Town owned property is not part of the Applicant's mitigation plan as currently proposed.

The Town is aware that the northern mitigation area and the eastern strip of natural buffer were once part of a large wooded tract that extended eastward and northward from the Site including land which is now occupied by Northwoods Residential Subdivision. Although large amount of this habitat has been destroyed as a result of development, a fairly expansive wooded habitat remains. The wooded area has provided habitat to whitetail deer and wild turkey and an occasional habitat to red or gray fox. It has also been a transient habitat for raccoon, opossum, eastern striped skunk, eastern cottontail, gray squirrel, meadow vole, moles, shrews and bats. Several bird species have also been resident or transient in these woods. The Site lacks permanent water bodies, therefore limiting the reptilian population to Garter Snake and American Toad. Ponding in wetland areas at the Site typically does not last long enough to support breeding of toads in spring. Therefore most reptilian, bird and mammalian species in the area do not occupy this habitat indefinitely.

PART VI: NOISE IMPACT AND MITIGATION

Ambient noise level at the project Site was measured by the Applicant's consultant and sensitive receptor points were identified in the SDEIS. The sensitive receptors, most likely to be affected by the noise from the Gateway Center are the residents of the Northwoods Subdivision immediately east of the Site. The distance between the townhouses and the retail buildings on the eastern side of the Project is about 200 feet: 42 feet between the townhouses and the Property boundary, and 155 feet between the boundary and the rear of the buildings.

The construction phase of Gateway Center will have some unavoidable noise impact on the residential subdivision. Some level of noise disturbance is anticipated during any construction project. The SDEIS analyzed the noise impact in detail. Applicant will follow "best management practices" in mitigating construction noise at the site. Applicant will also:

Restrict construction activity to daytime hours

Complete ground excavation and site preparation for Phase I and Phase II of construction at the same time, even though Phase II buildings may be constructed at a later time.

Potential sources of noise during operation of Gateway Center have been comprehensively evaluated in the SDEIS and FEIS. Noise from the retail plaza is expected to emanate chiefly from HVAC equipment, traffic movement of trucks, and snow-clearing equipment.

A study in the parking lot of a similar retail development on Transit Road, at a busy time of the year emulated potential noise levels from the proposed Gateway Center parking area. The study indicated that the noise from Gateway Center, received at the Northwoods Subdivision, would be lower than that observed at the analogous development. Parking lot noise will be shielded effectively by the designed layout of the buildings. Noise contribution from the parking lot will therefore be insignificant.

The Applicant has demonstrated scientifically and logically that with the correct design and configuration of the Project, maximum noise from the Site can be mitigated to fall within acceptable daytime and nighttime levels. The Applicant must ensure:

Trucks will be routed to the stores from Transit Road. Trucks will not enter from William Street driveway.

There will be no routine large truck traffic behind the large anchor buildings.

Each store will have limited loading dock-space, which will limit the amount of trucks that can be at the location at any one time.

Deliveries will be coordinated to reduce daily movement of trucks.

Rooftop HVAC will be placed as distant as practicable from the abutting residential properties to decrease the effect on sensitive receptors and be shielded for noise abatement.

Rooftop HVAC for all stores will be procured as per specifications that guarantees noise emission of less than 46 dBA.

There will be no prominent tonal components due to HVAC units.

Noise due to snowplowing in the parking lot will be shielded by the two large buildings. In the rear access road, snow-plowing trucks should either use low-volume, back-up alarms during early daytime hours; or strobe lights in lieu of back-up alarm.

Town of Lancaster experiences varying amounts of snowfall each year. Some inconvenience due to removal of snow is commonly presumed.

Technical investigation by the Applicant's consultant has demonstrated that increase in noise, due to increased traffic on William Street and Transit Road, will not be significant. In a worst-case scenario where the development of Gateway Center could cause doubling of traffic, an increase of 3 dBA would occur under laboratory conditions. Conservatively, even if an

increase in traffic by 50 percent is considered, there would be a logarithmic increase of 1.8 dBA. This increase will be insignificant when added to the existing noise level, which will remain within Noise Level Standards. Therefore, the Town does not find additional noise mitigation measures necessary.

PART VII: DRAINAGE

The Applicant will provide a stormwater management system, which is designed to attenuate peak rates of stormwater flow from the Site equal to that of a 100-year post-development storm to flow no greater than 10-year pre-development storm event.

NYS DOT has indicated to the Applicant that pre-development peak discharge rate should be no greater than 36 c.f.s. Applicant must comply with this prescribed threshold.

The Applicant will follow best management practice for stormwater pollution prevention.

The Applicant will finalize design and follow a Stormwater Pollution Prevention Plan, which will be utilized to allow the use of the State Pollution Discharge Elimination System (SPDES) permit from the NYSDEC. The Applicant must file a Notice of Intent, Termination and Transfer and demonstrate conformance of the Stormwater Pollution Prevention Plan with the SPDES General Permit guidelines.

The detailed storm drainage system for the Site must be included in site plans for review by the Town Engineer, Town Planning Board and Town Board.

The Town is aware that approximately 40 percent of the Site has somewhat poorly drained soil.

The soil is deep, has low permeability and slow run-off and the available water capacity is moderate to high, thus limiting the use of the Site for urban development. However, with the use of drains around foundations, the seasonal high water table will be considerably reduced, and grading will help eliminate surface wetness.

The design water levels for the stormwater management system will be set to preclude negative drainage conditions upstream of the basin area.

The stormwater management and treatment system will be constructed to dissipate energy and prevent scouring at the basin inlets. In addition, the system will provide extended detention for pollution removal, and discharge to an area in which natural processes will provide further polishing of the stormwater prior to release into the existing drainage network.

Stormwater conveyance structure will be inspected routinely to ensure proper operation. The Applicant will perform regular preventative maintenance and cleaning, including removal of debris from the catch basin, and pre-treatment areas, to minimize pollutant entering the stormwater management system.

PART VIII: LIGHTING IMPACT AND MITIGATION

Like any other large retail shopping center, Gateway Center can be expected to have lighting impact on receptors in the vicinity. The SDEIS elaborates the impact from lighting fixtures and has been satisfactorily discussed in the EIS. Town has agreed that the Applicant should to the extent practical:

Utilize flat lenses on pole mounts to minimize light spillage onto adjacent property

Plant more trees in the landscaped buffer area to the east to further shield from light glow.

Glare from headlights of vehicles and delivery trucks approaching the anchor stores are likely to have some impact. The buildings will block most of the light from vehicles except where the gaps between the buildings occur. The Applicant should, to the extent practical:

Erect fencing to cover the gaps between buildings to the east, so headlights will be screened from the eastern boundary line

Plant conifers with low or ground level branch spread in the landscaped buffer area to screen the diffused light.

PART IX: BUFFERING

Gateway Center will change the existing character of the Site, which is presently unoccupied, to high density commercial. The Town realizes the importance of protecting the quality of life in the residential zone to the immediate east of the Site.

The SDEIS and FEIS described a buffer zone, 105 feet wide, along the eastern property line. This buffer will comprise a 60-foot wide existing natural wooded area that will remain, and a 45-foot side landscaped area. The landscaped buffer zone will be comprised of conifers to screen contrast between the properties. Two species have been recommended by Cornell Cooperative Extension as being disease resistant and appropriate for site conditions: Austrian Pine and Douglas Fir. These species have been utilized in the site landscaping plan to provide the species with good viability. In addition, a rapid growing hybrid willow (Austree) is proposed within the landscaped area to provide the intended screening in the earliest possible time.

The Town's Forestry Department has accepted the landscape plan dated November 1, 2001 with the condition that:

the treeline along the eastern edge will have a minimum 30 foot centers; and
number of trees in the landscaped buffer zone be increased.

The Applicant has agreed to the conditions and will provide for the appropriate spacing

and number of trees consistent with the accepted plan.

The use of herbicides and fertilizers in stabilizing permanent vegetation and maintaining any temporary vegetation during construction will be restricted in order to prevent contamination in run-off.

PART X: TAXES

The Gateway Center is expected to generate approximately between \$350,000 and \$500,000 in new annual revenues to district taxes and \$1,500,000 to \$3,000,000 in annual sales taxes.

Since the Project will draw from local labor and service local or regional customers, an additional benefit will be realized from the money that is earned and spent within the community. In addition, the lack of demand on community services will provide an indirect benefit to the community.

The Town has determined that rezoning of the Site and operation of the Gateway Center would produce larger net tax benefits as compared to the functionality of the Site under present zoning and land use.

PART XI: EMPLOYMENT

Construction and operation of Gateway Center is expected to add approximately 1,400 employment positions to the region's economy, approximately 350 of which will be fulltime positions and approximately 350 will be part-time, assuming full project build-out and operation. Construction of the retail center will involve the generation of approximately 700 construction jobs.

Many jobs in the National retail chain stores involve versatile career options in many different departments of retail business such as assets management, quality assurance, operations, logistics, marketing, merchandizing etc. Retail centers create opportunity for clerical, maintenance and technical expertise. They may also offer on-the-job training. While most jobs may be hourly wage jobs, they provide flexibility especially for youth and senior citizens. Hourly paid jobs are often advanced to Associate jobs, which offer valuable fringe benefits including health insurance, bonuses, profit sharing, retirement plans and other benefits.

The Town of Lancaster recognizes the value of these jobs to the community in terms of betterment of personal income, and the benefits to job-seekers.

PART XII: MASTER PLAN

The Town has considered the environmental impacts of the proposed rezoning and its compatibility with the currently proposed Comprehensive Plan. The Comprehensive Plan dated June 1999, represents the current thinking for not only Town of Lancaster, but also its neighbors: The Village of Depew and Village of Lancaster. The Plan has been recently approved by these two communities and has received a recommendation for approval from the Planning Board of the Town of Lancaster.

The Comprehensive Plan recognizes the growth and development in the Town as positive influences and helps identify areas of opportunity for continued revitalization of the community. The Plan also promotes an appropriate level of mix of industrial, commercial, residential, recreational and open space land use.

The Property in question is located along Transit Road, which has been recognized in the Comprehensive Plan, as a regional corridor for commerce. The State of New York had recently undertaken a major project to widen Transit Road from two lanes to five lanes, adjacent west of the Property, to accommodate and manage vehicular traffic and commercial development along Transit Road. The widening of Transit Road between Broadway and French Road as a regional corridor for commercial and business development has been supported by the Town of Lancaster, Village of Lancaster, Town of Cheektowaga, Town of West Seneca and Village of Depew.

The Town finds that the Project meets the land use and dimensional criteria, and the objective of the regional commercial corridor; and therefore is in compliance with the Regional Comprehensive Plan.

PART XIII: ALTERNATIVES

In accordance with SEQRA Regulations, the SDEIS contained discussion of alternatives to the requested rezoning.

Alternatives considered included the "No-Action Alternative" including a "no-build" scenario and a "as-of-right" alternative without rezoning the Property, alternative sites, and alternative layout and design.

The Town finds that these alternatives prohibit the optimum use of land due to ecological or economic constraints.

The As-of-Right alternative could result in use of the Property for vehicle retail, repair and servicing facilities, or motels and warehouses under the existing CMS zoning. This would be more damaging to the environment and less profitable to the local economy. Threat of

spillage or leakage of fuel or chemicals would be far greater, while also creating more noise, air pollution and traffic under CMS. The existing zoning allows potential for smaller and more numerous parcels, which can cause greater traffic hazard because of multiple curb cuts and lack of access management.

The Town finds that the Applicant has demonstrated an ability and willingness to conduct activities in an environmentally sensitive manner, meeting the standards imposed by Federal, State and Local involved or interested agencies.

The configuration of the site, proximity to related shopping opportunities, relatively moderate environmental impacts, availability of public infrastructure to service the site were not available at the alternative sites considered.

Accordingly, the Town is satisfied that the applicant has adequately shown that the alternatives to re-zoning at the proposed Site are not feasible in light of the overall objectives of the project sponsor and the Town.

PART XIV: MISCELLANEOUS

In the Petition to rezone, the Applicant incorporated a number of measures that would mitigate or eliminate the significant and potential environmental impacts associated with the development of Gateway Center. These mitigation measures are presented in Section 6 of the SDEIS and throughout the FEIS. They are summarized below.

Exterior lighting will be arranged such that adjacent property on the eastern side will be protected from glare or light intrusion. Flat lenses will be used to prevent bubble glow where necessary.

Traffic congestion along Transit Road and William Street will be mitigated to the extent the existing level of service can be maintained or improved. This will be achieved through measures stated in Part IV of this Findings Statement.

The Applicant will mitigate impacts to wetlands on site by creating replacement wetlands off-site and preserving a high quality wooded area north of the Site, as well as working out a cooperative plan with Ducks Unlimited, following concurrence with the USACOE on the mitigation plan. The NYSDEC will be required to issue Water Quality Certification during the USACOE's permit approval process.

Some soil erosion will occur during construction as a result of clearing, grubbing, grading, excavating and other earth-moving operations. Sediment loading to surface waters will be minimized by conventional temporary and permanent erosion and sediment control measures (e.g. silt fences and hay bales, rip-rap lined channels, and sedimentation basins).

etc.) during construction. Permanent drainage swales and a detention basin will be used to reduce sediment after construction. The total area of soil disturbance will be minimized by construction sequencing. These measures coupled with the relatively flat topography of the site, should adequately mitigate impacts from sedimentation and erosion. The Applicant will be responsible for maintenance, inspection and preventative maintenance of sediment and erosion control features post-construction. Undeveloped but disturbed areas must be seeded and maintained with successful vegetative cover.

Building foundation will not be laid on bedrock, which has been shown by sewer installation work on Transit Road to be 10 feet below surface. Site specific earth borings have been made on the site to assess subsurface geotechnical conditions for foundation design. The borings confirmed that bedrock should not be encountered during site construction. Therefore, no impact to bedrock should occur.

Best management practices, such as conventional air emission control devices, will be used for construction equipment, to minimize impact to the existing air quality. Site preparation and other construction activities can be expected to generate fugitive dust. Applicant must control fugitive dust by minimizing area of exposure, spraying water during dry conditions and operating construction vehicles at appropriate speed throughout the construction phase of the Project. The 60 foot wide treed-buffer will help filter suspended particulate matter from the project site. At the operational phase, some pollution from commuter and maintenance vehicles is inevitable, though not significant. Operational air quality impairment cannot reasonably be expected to be significant in consideration of conditions at similar type and scale of development.

The 105-foot buffer at the eastern property line will help mitigate visual, aesthetic and light impacts to the residents at the Northwoods Subdivision. Additional plantings will be planted in the 45-foot wide landscaped area in the rear of the buildings. The requirements for the buffer are stated in Part VII of this Findings Statement.

Noise impact to the residential subdivision to the east of the Project must be minimized as per measures stated in Part VI.

Cultural Resource Investigation on the Site and 10 acres northward thereof, has shown that the structures on and around the Site are excluded from the State or National Register of Historic Places. Location of the Site in relation to Slate Bottom and Cayuga Creeks renders it potentially archaeologically sensitive. Phase 1B testing undertaken for the Site excluding wetlands and previously disturbed sites, however, did not identify any cultural material. The results were conveyed to the Office of Parks, Recreation and Historic Preservation (OPRHP) in August 2001. OPRHP concurred that there will be no impact upon cultural

resources in or eligible for inclusion in the State and National Registers of Historic Places. Review of the State's sensitivity mapping indicates the proposed mitigation site located near the intersection of Broadway and Steinfeldt Road is well outside of any mapped areas of sensitivity. This independent review was undertaken originally to assess the need for a comprehensive cultural resources investigation of the site. The request to provide additional information regarding this site appears to have been made in error, presumably based on a poor description of the project location.

The eight foot high stockade fences constructed between the gaps in the buildings along the eastern property line will help ameliorate the visual impact of the lighting and contrast of the commercial building.

PART XV: CONCLUSION

The process undertaken by the Town to review the Gateway Center Project has provided a means for agencies, the project sponsors, and the public to systematically consider significant adverse environmental impacts, alternatives and mitigation. The process has allowed the weighing of social, economic and environmental factors early in the planning and decision-making process.

A direct social benefit of the retail development would be the added convenience to consumers from adjacent residential communities. As opposed to travelling farther distances along busy traffic routes, they will be able to avail themselves to the goods and services offered by National Retail vendors, in their own neighborhoods. Collectively, Wegman's Food Market, Flix Theater, restaurants, a gas station, and Eckerd's drug store in the direct vicinity of the Gateway Center, will be able to cater to most retail, food, entertainment and leisure-time demands of the local community.

The Town of Lancaster, with a population of approximately 35,000 people, presently does not have any discount retail department stores within the Town. Tremendous local support for the project has been expressed in favor of such a development as indicated by the approximately 4,000 signatures presented on various petitions and numerous letters of support over the past 2-3 years. This support indicates the need and desire for this type of shopping alternative within the Town of Lancaster. The nearest similar store is an older K-Mart in the Town of Cheektowaga, which may face closure in light of the recent bankruptcy filing by K-Mart.

Typically, the primary local source of tax revenue from the retail development will be from

property taxes. As compared to annual tax revenue of \$35,400 from small land parcels presently occupying the land under CMS and R1 zoning, the retail development is expected to generate between \$350,000 to \$500,000 in property taxes, upon rezoning the entire site to GB. This estimate is based upon the approximately 250,000 to 300,000 square footage that is proposed for construction. The Town of Lancaster and Erie County will also derive \$1,500,000 to \$3,000,000 annually in sales taxes from the retail plaza. Due to the nature of the proposed development (i.e. retail), IDA tax breaks would not apply, thus avoiding the dilution of the economic benefit.

A leading benefit of the project is to induce economic impetus that is much needed in a community where residential expansion is disproportionately outgrowing commercial and industrial development and to satisfy local consumer demands. The Town of Lancaster's current draft Comprehensive Plan also recognizes the advantages of growth in the Town in the following statements:

- growth and development can be very positive influences,
- promote an appropriate level and mix of industrial, commercial, residential, recreational, and open space land uses, and
- identify areas of opportunity for continued revitalization of the community.

The Town of Lancaster and Villages of Lancaster and Depew have been in the process of updating their Master Plans for several years, resulting in the current draft of "A Comprehensive Plan" dated June 1999 by Peter J. Smith & Company, Inc. and The Saratoga Associates. This Regional Comprehensive Plan for the Town of Lancaster, Village of Lancaster and Village of Depew celebrates the interdependence of the communities, presents a shared vision for their future, and encourages a cooperative approach to achieving community land use, development and transportation goals. This Comprehensive Plan has recently been approved by the Villages of Lancaster and Depew and received a recommendation for approval from the Town of Lancaster's Planning Board.

The Regional Comprehensive Plan developed by the Town of Lancaster, Village of Lancaster and Village of Depew in September 1999 also recommended designating Transit Road as regional commercial route with adequate depth to accommodate commercial development to serve regional needs. The development of the Gateway Center is just one such application of this plan.

Another direct economic impact of the Gateway Center would be on the Flix theater across the project site on William Street. As the Gateway Center builds out the potential for shared customers through greater exposure may increase business for the complex. Business is slow for the Flix theater at present, as it is difficult to compete with other movie theater chains which are supported by major commercial development in their vicinity.

Similarly, sales at Wegmans Food Market across from the site on Transit Road are also expected to improve due to the development of Gateway Center. The Gateway Center will provide more exposure to the neighboring businesses and attract more people more frequently. This will lead to increased sales caused by the economic multiplier effect associated with commercial development. The success of a large commercial complex amidst residential neighborhoods will help the Town of Lancaster realize its goal to balance its residential growth with commercial growth and achieve a symbiotic relationship between the two.

The weighing and balancing of environmental impacts against social, economic and other considerations has included a range of issues touching all the relative physical conditions of the site as well as the existing community or neighborhood character. The concentrated study of wetlands, traffic, stormwater drainage, noise, air quality, and cultural resources have found that some impacts will be unavoidable, but through significant efforts to avoid, minimize or mitigate impacts have moderated those impacts to a level that, in balance with the overall benefits of the project, allows the Town to approve the project.

CERTIFICATION OF FINDINGS TO APPROVE

Having considered the Supplemental Draft EIS and Final EIS, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 N.Y.C.R.R. 617.11, this Statement of Findings certifies that:

1. The requirements of 6 N.Y.C.R.R. Part 617 have been met.
2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives available, the action is one which avoids or minimizes adverse environmental effects to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized by incorporating as conditions to the decision those mitigative measures which were identified as practicable.

TOWN OF LANCASTER TOWN BOARD

Robert H. Giza
Signature of Responsible Official

Robert H. Giza
Name of Responsible Official

Supervisor
Title of Responsible Official

April 8, 2002
Date

21 Central Avenue, Lancaster, New York 14086
Address of Agency

SCHEDULE A

**DESCRIPTION OF PROPERTY TO BE RE-ZONED GB - GENERAL
BUSINESS DISTRICT LOCATED ON TRANSIT ROAD
NORTH OF WILLIAM STREET
LANCASTER, NEW YORK**

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Lancaster, County of Erie, State of New York, being part of Lot 94, Township 10, Range 6 of the Buffalo Creek Indian Reservation and more particularly described as follows:

COMMENCING at a point in the centerline of William Street with the intersection of the original centerline of Transit Road; Thence East along the centerline of William Street, a distance of 355.75 feet to a point; Thence North a distance of 40.01 feet to the **POINT OF BEGINNING**.

Thence North, a distance of 316.25 feet to a point;

Thence West, a distance of 324.34 feet to a point;

Thence North, along the easterly line of Transit Road, a distance of 141.63 feet to a point;

Thence West, a distance of 5.5 feet to a point;

Thence North, along the easterly line of Transit Road, a distance of 839.25 feet to a point;

Thence East, a distance of 572.70 feet to a point;

Thence North, parallel with the original centerline of Transit Road, a distance of 578.03 feet to a point;

Thence East, along the north line of Lot 94, a distance of 434.34 feet to a point;

Thence South, parallel with said centerline of Transit Road, a distance of 1879.58 feet to a point;

Thence West, along the north line of William Street (being 50 feet wide), a distance of 434.49 feet to a point;

Thence North, a distance of 15.00 feet to a point;

Thence West, along the north line of William Street (being eighty feet wide), a distance of 267.15 feet to **THE POINT AND PLACE OF BEGINNING**.

Containing 33.63 +/- acres of land.

LOS ANGELES, CALIFORNIA

STREET MAP

LONG BEACH ROAD

TRANSIT ROAD

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EXHIBIT "B"

ADJOURNMENT:

ON MOTION DULY MADE, SECONDED AND CARRIED, this meeting was
adjourned at 7:06 P.M.


Johanna M. Coleman, Town Clerk